



**CITY OF PORT ORCHARD**  
**Department of Community**  
**Development**

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**Staff Report and Recommendation to the Hearing Examiner**

**Hearing Date:** July 21, 2020

**Subject:** Preliminary Plat of McCormick Woods Parcel A, LU19-PLAT PRELIM-02

**Prepared by** Stephanie Andrews, Associate Planner

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This Staff Report and Recommendation to the Hearing Examiner is based on information available until the time the report was prepared (July 14, 2020). New information relevant to review of the application may become available prior to the hearing or at the hearing itself. Staff's analysis may change based on any new information provided.

**I. GENERAL INFORMATION**

**Applicant's name and address:**

Amherst Holdings, Greg Krabbe  
805 Kirkland Ave, Suite 200  
Kirkland, WA 98033

**Contact/authorized agent:**

Contour Engineering  
PO Box 949  
Gig Harbor, WA 98335

**Permit Request:**

Preliminary Subdivision (LU19-PLAT PRELIM-02)

**Location of proposal:** East of the intersection of SW Old Clifton Rd and McCormick Woods Drive, Port Orchard. Assessor Parcel Number: 042301-3-010-2006 (the "subject property", "site", or "project site").

**Description of proposal:** The proposed project is a subdivision of approximately 19.98 acres into 53 single family building lots, two future development tracts, four open space tracts, and one stormwater tract. The site is currently designated as Medium Density Residential in the City of Port Orchard Comprehensive Plan and designated as Residential 2 (R2) on the City of Port Orchard Zoning Map.

Review of available critical areas data does not indicate the potential for wetlands or streams on or adjacent to the site. The applicant has submitted information to support this finding in Exhibit 4E.

The proposed lot sizes meet the minimum requirements for the proposed building types in the R2 zone which is 5,000 square feet for detached houses that take access for primary streets and 3,000 square feet for lots which do not take access from the primary street.

Primary access is proposed via two public road approaches intersecting both McCormick Woods Drive and St Andrews Drive. Four lots (47, 48, 49, and 50) are accessed via a private access and utility easement off of new proposed public Road A.

The proposed subdivision meets the minimum connectivity index and the maximum block face length requirements of Port Orchard Municipal Code (POMC) 20.100.020 and 20.100.060 respectively, with consideration given to a Code Interpretation that was issued June 3, 2020 that sought to clarify this section of code. That Interpretation is included in the record as Exhibit 32. This Interpretation clarified that where topographic or critical areas features on parcels of one-half acre or larger are present, if one of the three options provided under 20.100.060(2) are implemented within each block that exceeds 800 feet in face length or 2,400 feet in perimeter length, the street length standards in POMC 20.100.060 shall be considered met.

Stormwater from the subdivision will be collected and conveyed to a stormwater infiltration pond located in the northern end of the subject property. The stormwater facility is in Tract G which is approximately 20,727 square feet. The stormwater tract will be owned and maintained by the Homeowners Association through the recordation of the associated Final Plat for this subdivision.

The City of Port Orchard will serve the resultant lots with sanitary sewer and water. The City of Port Orchard has issued a Capacity Reservation Certificate for the proposed development, referenced as Exhibit 33 to the record.

**Comprehensive Plan and Zoning Map designations:**

	<b>Comprehensive Plan Land Use Designation</b>	<b>Zoning Map Designation</b>
Site:	Medium Density Residential	Residential 2 (R2)
North:	Medium Density Residential, Public and Community Spaces	Residential 2 (R2) and Public Facilities (PF)
South:	Medium Density Residential	Residential 2 (R2) and Residential 6 (R6)
East:	Medium Density Residential	Residential 2 (R2)
West:	Medium Density Residential	Residential 2 (R2)

**Adjacent land use:**

North: Existing residential subdivisions and open space tracts, City Lift Station #2 Facility

East: Existing residential subdivisions

South: Existing residential subdivisions, Golf Course

West: Existing residential subdivision, undeveloped land

**Utility purveyors:**

Water: City of Port Orchard

Sewer: City of Port Orchard

Electricity: Puget Sound Energy

Gas: Cascade Natural Gas

**Other permits/review required:**

- Land Disturbing Activity Permit
- Stormwater Drainage Permit
- SEPA (issued 6/19/2019 and clarified on July 13, 2020)
- NPDES
- Forest Practices Application
- ROW Permit

- Final Plat Approval
- Building Permits

**History of the proposed project:**

Amherst Holdings applied for the McCormick Woods Parcel A Residential Plat preliminary subdivision on November 15, 2019. A Determination that the application was Technically Incomplete was issued on December 13, 2019 (Exhibit 3). The items requested in that Determination were submitted on December 19, 2019 and the application was subsequently determined to be “complete” on January 2, 2020 (Exhibit 6).

The City provided Notice of Application on January 24, 2020 consistent with the requirements of POMC 20.24 (Exhibit 7). 101 comments were received in response to this Notice which are included as Exhibit 11. Although the application was determined complete and the Notice of Application was provided, review by the City and affected agencies required revisions to the application. The applicant and the City worked together to refine the content of the application during the following months resulting in revised materials being submitted by the applicant on March 25, 2020, June 8, 2020, and July 7, 2020. The proposal originally included the subdivision of the property into 58 single-family lots and was later revised to a 53-lot layout based on citizen comments received during the Notice of Application process.

Based on the June 8, 2020 submittal (Exhibit 21), the City provided notice of the issuance of a SEPA Mitigated Nonsignificance and requested comments from surrounding property owners, interested parties, and affected agencies on June 19, 2020. Two comments were received; one from the Washington State Department of Archaeology & Historic Preservation which can be found as Exhibit 23, and one from Erik Ekstrom on behalf of Northview Ridge Properties which can be found as Exhibit 34. The DAHP letter states that a survey conducted immediately across SW Old Clifton Road last year had a prehistoric artifact recovered from one of the test probes. It is the recommendation of DAHP that a professional archaeological survey of the project area be conducted prior to ground disturbing activities. They also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues. This information is recommended as a condition of approval of this preliminary subdivision. The letter from Mr. Ekstrom requests that the City withdraw its MDNS to further evaluate required mitigation for impacts to the surrounding road network and SR-16.

On July 6, 2020, the City issued a revision to the MDNS that was issued on June 19. The revision clarified the SEPA appeal process in accordance with POMC 20.160.240(6)(b). The SEPA appeal period expired at 4:30pm on July 13, 2020. No appeals of the SEPA Determination were filed.

57 comments were submitted after the close of the Notice of Application comment period and prior to the issuance of the SEPA Determination. Those comments are included as Exhibits 12-15, 17, and 18.

The City provided notice of the public hearing to surrounding property owners and parties of interest on July 2-3, 2020. As July 3 was an observed federal holiday, emails and mailed documents were sent out on July 2 while the newspaper notice was published on July 3 (Exhibits 24, 28, and 29).

**City Permit Process:**

This application has been submitted as a new preliminary plat and therefore requires a public hearing before the City of Port Orchard Hearing Examiner as a Type III permit.

**Site Description:**

The subject property encompasses approximately 19.98 acres which generally slopes from Southeast to Northwest. The steepest slopes on-site are approximately 33%, which have been assessed in a

Geotechnical Report that is submitted for the record as Exhibit 4B. The presence of wetlands or streams were not noted as evidenced in the wetland and fish and wildlife habitat assessment completed by Soundview Consultants and submitted to the record as Exhibit 4E.

## II. CRITERIA FOR APPROVAL

### A. State Law

#### 1. Environmental Regulations.

- **WAC 197-11-350 Mitigated DNS.**
- **WAC 197-11-660 Substantive authority and mitigation.**

*Department Response: Pursuant to WAC 197-11-350, this proposal was reviewed for potential environmental impacts and the lead agency determined that the proposed project does not have probable significant adverse impact on the environment as conditioned. A Mitigated Determination of Non-Significance was issued June 19, 2020. The Decision was not appealed by the July 13, 2020 appeal deadline.*

#### 2. Subdivision Regulations.

- **RCW 58.17.110.** Provides that a proposed subdivision shall not be approved unless:
  - (A) Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, street or roads, alleys, other public ways, transit stops, potable waters 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 interests will be served by the platting of such subdivision and dedication.

*Department Response: This preliminary plat reviewed by city staff was found to be consistent with RCW 58.17.110, as conditioned herein.*

### B. City of Port Orchard Comprehensive Plan

Land Use Goals and Policies are provided in the adopted 2016 City of Port Orchard Comprehensive Plan as revised in July 2018, Chapter 2.

1. **Land Use and Zoning Designation.** The 2016 City of Port Orchard Comprehensive Plan designates the area of the proposed preliminary plat as Medium Density Residential. The Medium Density Residential designation is implemented through various zoning designations and indicates single-family detached, single-family attached and apartment buildings are compatible in the Medium Density Residential designation.

The subject property is designated as Residential 2 (R2) on the City of Port Orchard Zoning Map. The R2 district is primarily intended to accommodate detached house, duplex, and townhouse development with a minimum lot size that varies based on building type. The R2 district is intended to implement the residential medium density comprehensive plan designation. Additional building types that are allowed include backyard cottage (detached accessory dwelling unit), cottage court, duplex and attached house. Uses that would substantially interfere with the residential nature of the

district are not allowed. Lots that take vehicular access from primary street can be a minimum of 5,000 square feet, while lots that do not take vehicular access from primary street (lots with vehicular access from alley) can be a minimum of 3,000 square feet.

**Department Response:** *The proposed development is consistent with the City's Comprehensive Plan designation of Medium-Density Residential. The site is served by adequate public water supply, sewers, roads, and any other needed public facilities and services as defined in the public concurrency management system. Surrounding lands have been developed with residential development to the east, south, and west, with undeveloped land to the north. The proposed uses in the preliminary plat are consistent with the requirements of the R2 zone.*

## 2. Section 2.6 Land Use Goals and Policies

- **Goal 1, Policy LU-4:** “Encourage the subdivision of large parcels and, through private subdivisions and public acquisitions, the creation of a continuous street grid similar in scale to the downtown’s, especially in designated centers of local importance.”
- **Goal 2, Policy LU-8:** Provide a variety of housing types and employment opportunities that meet the needs of diverse socioeconomic interests.

**Department Response:** *The proposed subdivision satisfies Policy LU-4, through the creation of an internal street network which meets the minimum connectivity index prescribed in POMC 20.100.020. Additionally, the proposed subdivision satisfies Policy LU-8 through the creation of lots for single-family detached housing.*

## 3. Section 5.3.1 Geologically Hazardous Areas

Geologically hazardous areas include unstable slopes over 30% grade, and areas of geologic concern include unstable slopes less than 30% grade and other slopes that meet criteria for high erosion potential, seismic hazard or groundwater seepage. Engineering provides some solutions to environmental constraints associated with geologic hazards, but such solutions must be evaluated for suitability in individual circumstances.

- **Goal 3 Protect the public health, safety and welfare from geologic hazards.**

Policy PONS-1 Ensure that development in geologically hazardous areas occurs in a manner that minimizes hazard to health or property and minimizes impacts to the natural environment, including stream and shoreline processes.

Policy PONS-2 Protect public safety and health, maintain water quality and habitat, minimize erosion of soils and bluffs, and diminish the public cost of repairing areas from damage due to landslides, erosion and seismic activities through appropriate regulation and development conditions.

Policy PONS-3 Where information about extensive fill areas is known, depict fill areas as areas of geological hazard.

Policy PONS-4 Restrict development in geologically hazardous areas according to the Critical Areas Ordinance, unless the site is demonstrated by a qualified geotechnician to be suitable for building.

**Department Response:** *The proposed development site's central area from approximately southwest to northeast is identified by the applicant in their supporting reports to contain slopes over 30%. This area is not mapped as a geologically hazardous area on Critical Areas map resources. The applicant's site exploration indicates the steepest slope on the site is 33%, and with supporting analysis the report demonstrates that the slopes would not be considered a geologically hazardous area.*

#### **4. Section 8.11 Transportation Goals and Policies**

- Policy TR-1 Implement the roadway design standards, including acquisition of right-of-way as needed, as defined in the City's transportation Capital Facilities plans and Port Orchard Road Standards.
- Policy TR-2 Implement necessary transportation improvements as development in the City occurs, consistent with the City's Concurrency policies and SEPA requirements.
- Policy TR-3 Require new development and redevelopment to incorporate transit, pedestrian and other non-motorized transportation improvements, including bus shelters and/or pullouts, sidewalks, pathways, crosswalks, and bicycle lanes.
- Policy TR-7 Require new development and redevelopment to incorporate appropriate street lighting as defined in the Port Orchard City Road Standards.
- Policy TR-8 Include sidewalks as required in the Port Orchard City Road Standards.
- Policy TR-11 Require developers to provide on-site and off-site road, safety, and other transportation improvements where necessary to serve the needs of the proposed developments and mitigate the impacts of their development on the surrounding neighborhoods.
- Policy TR-35 Require that internal streets make provision for non-motorized transportation opportunities, consistent with Port Orchard City Road design standards or approved variances.
- Policy TR-38 Require new development and redevelopment to provide safe neighborhood walking and biking routes to schools.
- Policy TR-41 Require new development and redevelopment to comply with adopted street standards that require bike lanes on identified bike routes.
- Policy TR-53 Consider creative options for protecting walking and bicycle facilities from vehicle traffic, such as with parked cars or planters.
- Policy TR-83 Minimize impacts of road construction on environmentally sensitive areas by properly managing damaging stormwater runoff and minimize and pollution from road use and maintenance.

Policy TR-84 Where possible for new development and redevelopment, require underground relocation or the under-grounding of overhead utilities to reduce the need for removal and maintenance of roadside vegetation.

Policy TR-96 Make transportation improvements available to support planned growth and adopted levels of service concurrent with development. "Concurrent" shall mean that improvement or strategies are in place at the time of development, or that a financial commitment has been made.

Policy TR-97 Implement the Road Design Standards shown on the City's transportation plan and acquire needed right-of-way.

Policy TR-112 Provide street wise landscaping on City streets.

**Department Response:** *The application materials included as Exhibit 4 contained a Traffic Impact Analysis for the full build-out of the Old Clifton corridor. This report was submitted in error, and the Traffic Impact Analysis specific to this proposed subdivision is included in the record as Exhibit 27. This TIA includes reference to (and as attached to) a Development Agreement that was entered into by Kitsap County (assumed by Port Orchard through annexation) and GEM 1, LLC (assigned to McCormick Communities, LLC). On Page 5 of the Development Agreement, section 11 provides the verbiage related to traffic concurrency for the ULID#6 sub-area plan, which this parcel is subject to.*

*The findings and conclusions of the TIA found as Exhibit 27 are as follows:*

- *The proposed project will develop 59 single-family houses and will be constructed by 2021.*
- *The project is anticipated to generate approximately 640 weekday daily trips with approximately 61 occurring during weekday PM peak hour.*
- *Under future (2021) with-project weekday PM peak hour conditions, all study intersections are anticipated to continue to operate at the same LOS as under without-project conditions, with the exception of the SR 16 SB ramp intersection that is anticipated to degrade from LOS E to LOS F and the SW Berry Lake Road intersection that is anticipated to degrade from LOS C to LOS D .*
- *Signal warrants are met at both SR 16 ramp intersections under existing and future conditions. A fair share contribution to traffic signals at these locations is anticipated to be provided by the project.*
- *Vehicular access is proposed via the existing McCormick Woods Drive SW and St. Andrews Drive SW. Both site accesses are anticipated to operate at LOS A under future (2021) with-project conditions. Sight distance requirements are anticipated to be met at both site access locations.*
- *Payment of transportation impact fees will be required by the project applicant. Based on the City's Impact Fee Rate Study, the transportation impact fee is estimated to be \$150,582. This fee should be considered a preliminary estimate only and will be finalized by the City upon review.*

*Further, Page 5-6 of the Development Agreement goes on in #12 to state that as provided by RCW 36.70B.190, while this Agreement is in effect, "the agreement is binding on ... a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement." In the event McCormick Urban Village is annexed or incorporated into a municipality, and the municipality agrees that it is bound by this agreement, all impact fees collected by Kitsap County pursuant to this Agreement that represent the proportional share of the costs for system improvements reasonably related to the McCormick Urban Village regional system*

improvements that are listed in the Capital Facilities Plan and that are available at the time of annexation shall be conveyed to the municipality for use in funding construction of the necessary transportation system improvements which are the subject of this Agreement.

The applicant's attorney has provided a letter (Exhibit 36) to outline the terms that were agreed to upon approval of the Development Agreement. This includes clarification of the agreed-upon traffic mitigation for properties within the ULID#6 area (including the subject property), and a discussion of the restriction on the imposition of impact fees to fund transportation projects located outside of Kitsap County. Such traffic impact fees can only be required if a formal interlocal agreement is reached with another jurisdiction, such as WSDOT, and then only if GEM (Amherst) and Kitsap County (City of Port Orchard) agree to amend the Development Agreement. The applicant's attorney asserts that all traffic mitigation obligations from development of the proposed Preliminary Plat have already been established and agreed upon in the Development Agreement and that Amherst will be paying the required traffic impact fees as established by the Development Agreement.

## C. City of Port Orchard Municipal Code (POMC)

### 1. Hearing Examiner

- **POMC Chapter 2.76 Hearing Examiner.** This section of code provides the power and authority of the Hearing Examiner to issue decisions or as appropriate, recommendations, to the City Council. The Hearing Examiner's decisions/recommendations shall be set forth in the findings of facts and conclusions. The decision/ recommendations shall be supported by substantial evidence in the official record.
- **POMC 20.22.** This Chapter of the Port Orchard Municipal Code (POMC) address the review of different application types, consolidation of permit types, application process, public notice and review procedures. This Chapter also requires the City to provide a Determination of Consistency between the proposed project and the applicable regulations and the Comprehensive Plan provisions.
  - **POMC 20.22.050, Type III (hearing examiner decision, judicial appeal).** This section of the POMC provides the process of which a Type III shall be processed and presented before the City's Hearing Examiner
- **POMC 20.24 Permitting and Development Approval – Application Procedures.** This section of the POMC outlines the procedure which all applications are processed including pre-application conferences, submission requirements, application review, technical completeness, public notice, any required corrections and revisions and Decision criteria for all application types.

**Department Response:** *This project was processed consistent with applicable regulations and notification requirements. The City, through its analysis of the materials submitted by the applicant regarding the preliminary plat, has determined with the recommended conditions of approval and analysis presented within this report that the project is consistent with applicable regulations. This project is properly before the Hearing Examiner who will conduct an open record hearing and issue a decision.*

## 2. Zoning Designations and Requirements

- **POMC 20.39.040 Use Table**

This portion of the POMC identifies permitted, conditional and not-permitted primary and accessory uses in residential and non-residential zones.

- **POMC 20.34.020, Residential 2 (R2)**

This section of the POMC provides the required minimum dimensional requirements of resultant lots within the specific zone. The required setbacks, maximum impervious surface and building heights, lot areas and widths and permitted building types for the R2 district are provided below:

- (1) Intent. The R2 district is primarily intended to accommodate detached house, duplex, and townhouse development with a minimum lot size that varies based on building type. The R2 district is intended to implement the residential medium density comprehensive plan designation. Additional building types that are allowed include backyard cottage (detached accessory dwelling unit), cottage court, duplex and attached house. Uses that would substantially interfere with the residential nature of the district are not allowed.
- (2) Building Types Allowed. The allowed building types in the R2 zone are as follows:
  - (a) Detached house (POMC 20.32.020).
  - (b) Backyard cottage (detached ADU) (POMC 20.32.030).
  - (c) Cottage court (POMC 20.32.040).
  - (d) Duplex: side-by-side (POMC 20.32.050).
  - (e) Duplex: back-to-back (POMC 20.32.060).
  - (f) Attached house (POMC 20.32.070).
  - (g) Townhouse (POMC 20.32.090) (three to four units townhouse buildings only).
  - (h) Accessory buildings (POMC 20.32.010(16)).
- (3) Lot Dimensions.
  - (a) Minimum Lot Size by Building Type.
    - (i) Detached House (POMC 20.32.020).
      - (A) Lots that take vehicular access from primary street: 5,000 square feet.
      - (B) Lots that do not take vehicular access from primary street (lots with vehicular access from alley): 3,000 square feet.
    - (ii) Backyard cottage (detached ADU) (POMC 20.32.030): not applicable.
    - (iii) Cottage court (POMC 20.32.040): 1,200 square feet.
    - (iv) Duplex: side-by-side (POMC 20.32.050): 5,000 square feet.
    - (v) Duplex: back-to-back (POMC 20.32.060): 5,000 square feet.
    - (vi) Attached house (POMC 20.32.070): 2,500 square feet.
    - (vii) Townhouse (POMC 20.32.090): 2,000 square feet.
  - (b) Minimum Lot Width.
    - (i) Detached House (POMC 20.32.020).
      - (A) Lots that take vehicular access from primary street: 50 feet.
      - (B) Lots that do not take vehicular access from primary street: 30 feet.
    - (ii) Backyard cottage (detached ADU) (POMC 20.32.030): not applicable.
    - (iii) Cottage court (POMC 20.32.040): 20 feet.
    - (iv) Duplex: Side-by-Side (POMC 20.32.050).
      - (A) Lots that take vehicular access from primary street: 60 feet.
      - (B) Lots that do not take vehicular access from primary street: 40 feet.

- (v) Duplex: back-to-back (POMC 20.32.060): 40 feet.
- (vi) Attached House (POMC 20.32.070).
  - (A) Lots that take vehicular access from primary street: 30 feet.
  - (B) Lots that do not take vehicular access from primary street: 20 feet.
- (vii) Townhouse (POMC 20.32.090).
  - (A) Lots that take vehicular access from primary street: 30 feet.
  - (B) Lots that do not take vehicular access from primary street: 20 feet.
- (4) Maximum hard surface coverage is 70 percent.
- (5) Principal Building Setbacks.
  - (a) Primary street: 10 feet minimum or average front setback (see POMC 20.40.020).
  - (b) Side street: 10 feet minimum.
  - (c) Side interior: five feet minimum (except attached housing types with dwellings on individual lots such as townhouses or attached houses which do not require a side interior setback).
  - (d) Rear: 10 feet minimum (rear setback for an accessory structure abutting an alley may be reduced to two feet).
- (6) Accessory Structure Setbacks.
  - (a) Primary street: 40 feet minimum.
  - (b) Side street: 10 feet minimum.
  - (c) Side interior: five feet minimum (except attached housing types with dwellings on individual lots such as townhouses or attached houses which do not require a side interior setback).
  - (d) Rear: 10 feet minimum (rear setback for an accessory structure abutting an alley may be reduced to two feet).

**Department Response:**

*As proposed the preliminary subdivision complies with the minimum lot size requirements of POMC 20.34.020 for the proposed building types.*

*Detached single family dwelling units are a permitted use and detached houses are a permitted building type within the R2 Zoning District as noted in POMC 20.39.040 and 20.34.020(2) respectively. The resultant lots within the R2 zone provide adequate building envelopes and lot areas for the permitted building types. The smallest lot proposed in the subdivision is 5,005 square feet, with the majority of the proposed lots being over 7,000 square feet.*

*Required residential design standards in POMC 20.139 will be implemented at the time of subsequent building permit submittal and review. Lot width will dictate maximum garage width.*

**3. POMC 20.100 Development Standards – Subdivision Design**

**POMC 20.100.010 Purpose**

The purpose of this chapter is to ensure that subdivisions, short plats, and binding site plans are compact, pedestrian-friendly, provide necessary infrastructure and services, and contribute to the character of the town and surrounding neighborhoods.

**POMC 20.100.020 General Requirements**

This portion of the POMC addresses the general requirements of any subdivision application by requiring adequate access to serve subdivisions and that those subdivisions create a well-connected transportation network. Specifically, POMC 20.100.020(3) requires a connectivity index that is at least 1.4 by determining the number of nodes and segments within a proposed subdivision and dividing the segments by the number of nodes.

*Department Response: The proposed subdivision meets minimum connectivity requirements of 1.4 with a measure of 2.5.*

**POMC 20.100.030 Lot Layout**

This portion of the POMC addresses general lot layout and intends to support the creation of normal shaped lots.

*Department Response: The proposed preliminary subdivision's resultant lots are all generally rectangular apart from Lots 18, 47-50, and 52. These lots are considered flag lots which meet the dimensional requirements of a "flag lot" as described in POMC 20.12 and POMC 20.40.010(2)(d). Lots 18, 47-50, and 52 all have at least 15 feet of frontage on the proposed Road A. The resultant lots, as proposed, meet the minimum requirements of POMC 20.100.030.*

**POMC 20.100.040 Street standards.**

This portion of the POMC addresses the arrangement and classification of streets in compliance with the Port Orchard Comprehensive Plan, the projection and alignment of streets, the minimum offset of proposed streets, the extension of new streets, pedestrian connectivity, streets lights and street signs.

*Department Response: The proposed preliminary subdivision, as conditioned herein and as the subsequent associated Land Disturbing Activity Permit will be reviewed and approved, satisfies the requirements of POMC 20.100.040.*

**POMC 20.100.050 Intersections, half streets.**

This portion of the POMC addresses the degree of intersection of proposed streets and half-street construction where it is prohibited except where reasonable.

*Department Response: The layout of the proposed streets all is within the degree of tolerance at all proposed intersections. Additionally, the full width of all proposed streets will be constructed as part of the development of this plat.*

**POMC 20.100.060 Street length**

This portion of the POMC addresses maximum block face lengths, block perimeters, and cul-de-sac lengths.

- (1) Length of a Block or Street Segment. The maximum length of any block or street segment (including a looped street) shall be 600 feet along arterial streets. Block faces shall not exceed 800 feet along other streets and the full perimeter of a block shall not exceed 2,400 feet except where topographic or critical areas features on parcels of one-half acre or larger would justify an exception from this requirement. Cul-de-sac streets shall adhere to Table 20.100.070(1) or other requirements herein. Measurements shall be measured

along the centerline of the street from the centerline or center point of one intersection to the centerline or center point of the next intersection. For the purposes of measurement, either a full four-way intersection or a “T” three-way intersection shall be considered an intersection.

(2) The length of a block or street segment may exceed the maximum length stated in subsection (1) of this section under the following conditions:

- (a) Blocks containing retention or detention ponds;
- (b) Blocks containing parks; and
- (c) Development where the proposed development abuts the rear of an existing development and no rights-of-way have been provided.

**Department Response:** *On June 3, 2020, a Code Interpretation was issued based on the following request by the applicant: “A Code Interpretation is requested to provide an intent for how the exceptions listed in POMC 20.100.060(2) are granted. This section of the POMC lists several options to achieve a functional break in the required block length other than an intersection. The code is vague on any required combination or hierarchy of exceptions. Therefore, the code should be interpreted to allow each of these conditions to be utilized independently of the others. The location of a stormwater pond or a park along a block face provides an adequate break similar to that of a public right-of-way.”*

*The Code Interpretation includes analysis of the intent and wording of the code and provided the following guidance: “Where topographic or critical areas features on parcels of one-half acre or larger are present, if one of the three options provided under 20.100.060(2) are implemented within each block that exceeds 800 feet in face length or 2,400 feet in perimeter length, the street length standards in POMC 20.100.060 shall be considered met.” (Exhibit 32)*

*The proposed subdivision is within the allowance for maximum block face length requirements of Port Orchard Municipal Code (POMC) 20.100.060. The applicant also satisfies the maximum block perimeter allowed in POMC 20.100.060 through exception by providing a stormwater facility in Tract G and park in Tract B.*

**POMC 20.100.090 Street width and design.**

This portion of the POMC generally addresses the width and design of streets and requires any created street to meet the minimum requirement of the PWESS.

1) Pavement Widths and Rights-of-Way. Pavement widths and design and rights-of-way shall be as designated in the adopted PWESS; provided, that for local access streets, the subdivision also meets the applicable block length requirements of POMC 20.100.060 and connectivity index in POMC 20.100.020.

(2) Design. Streets shall be designed according to the following requirements:

...

(d) Local. Streets shall be designed to provide direct access to residential activity, and in such a way as to encourage connectivity of the roadway network but discourage cut-through traffic.

**Department Response:** *All Local A streets within the proposed subdivision will meet all other requirements of the Local A standard found in the PWESS. The City has received a preliminary deviation request to omit the required landscape strip along the proposed street adjacent to the*

*stormwater facility. The request has received a preliminary approval at this time based on the site constraints and other warrants. Final review and approval shall be completed with the Land Disturbing Activity Permit as outlined in POMC and the Public Works Standards and Specifications.*

**POMC 20.100.100 Street offsets.**

Intersection Offsets. Where parallel streets intersect another street, the centerline of those streets shall be offset a minimum of 120 feet, unless a stricter standard is adopted in a subarea or corridor plan.

***Department Response:*** *The proposed subdivision is not within an area subject to a subarea or adopted corridor plan. The proposed road intersections are separated by at least 120 feet measured from centerline intersection to centerline intersection from all existing road intersections. As proposed the subdivision satisfies the requirements of POMC 20.100.100.*

**POMC 20.100.110 Curbs and gutters.**

Curbs and gutters shall be installed according to the provisions of this chapter and to the adopted PWESS. Combination curb and gutter improvements shall be provided to mark the edge of pavement and carry surface water, as set forth below:

(2) Beside Local Streets. The subdivider shall install curbs on both sides of all local streets within the subdivision and at subdivision boundaries, except for existing boundary streets, in which case curb and gutter installation shall be required on the subdivision's frontage only.

(3) At Street Intersections. The minimum curvature of curbs at street intersections shall be as prescribed in the adopted PWESS and shall maintain proper stopping sight distance as determined by the latest edition of AASHTO's "A policy on Geometric Design of Highways and Streets."

***Department Response:***

*Roads shall be designed in accordance with the most current City of Port Orchard Public Works Engineering Standards and Specifications. 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. Conditions are recommended to address intersection design and code compliance at the time of Land Disturbing Activity Permit and Stormwater Drainage Permit and compliance is again confirmed prior to Final Plat.*

- **POMC 20.129 Significant Trees.**

**POMC 20.129.010**

It is the purpose of this chapter to:

(1) Provide incentives for preserving significant trees and to require the replacement of significant trees at specified ratios when they are removed.

- (2) Mitigate the environmental and aesthetic consequences of tree removal in land development through tree replacement to achieve a goal of no net loss of significant trees throughout the city.
- (3) Provide measures to protect significant trees that may be impacted during construction activities.
- (4) Maintain and protect the public health, safety, and general welfare.
- (5) Preserve the aesthetic, ecological, and economic benefits of forests and tree-covered areas in Port Orchard including:
  - (a) Providing varied and rich habitats for wildlife;
  - (b) Absorbing carbon dioxide;
  - (c) Moderating the effects of winds and temperatures;
  - (d) Stabilizing and enriching the soil;
  - (e) Slowing runoff from precipitation and reducing soil erosion;
  - (f) Improving air quality;
  - (g) Improving water quality;
  - (h) Masking unwanted sound;
  - (i) Providing visual relief and screening;
  - (j) Providing recreational benefits;
  - (k) Enhancing the economic value of developments; and
  - (l) Providing a valuable asset to the community.

**POMC 20.129.020 Applicability.**

- (1) This chapter applies to all significant trees in the city.
- (2) No significant tree may be removed unless the requirements of this chapter are met.
- (3) The following situations, activities, and projects are exempt from the significant tree protection requirements of this section unless the tree is located in a critical area as identified in Chapter 20.162 POMC:
  - (a) Utility developments.
  - (b) Roadway or street (including sidewalks) construction.
  - (c) Parks projects.
  - (d) Trees that interfere with overhead utility lines.
  - (e) Trees that are causing damage to building foundations.
- (4) This chapter shall not be construed to authorize the removal of trees where tree removal is not otherwise permitted in the POMC.

**POMC 20.129.040 Removal and replacement of all significant trees.**

- (1) Approval of the director is required for the removal of significant trees and shall be granted; provided, that all other applicable requirements and standards of the Port Orchard Municipal Code are met. The decision to authorize the removal of a significant tree shall be a Type 1 decision; however, an application that involves two or more procedures may be processed consistent with the procedures provided in POMC 20.22.020(2). Approval requires that the following condition and the replacement requirements of subsection (2) are met:
  - (a) All significant trees located within any required landscape buffer area or required landscape planting area shall be retained to the extent practical and feasible.
  - (b) This provision shall not be construed as to prohibit mass grading; provided, that significant trees are replaced in accordance with this chapter.

(2) Significant trees that are removed shall be replaced with trees meeting the following requirements:

(a) Trees must be replaced at the rates described in Table 20.129.040 and at no less than a 1:1 ratio for any proposed development. If the number of replacement trees required in accordance with Table 20.129.040 results in a fraction, the number shall be rounded up to the nearest whole number.

**Table 20.129.040 Replacement Tree Quantity**

<b>Significant Tree Diameter</b>	<b>Number of Replacement Trees Required</b>
18 – 22 inches diameter	0.5
22 – 28 inches diameter	1
28 – 36 inches diameter	2
Greater than 36 inches diameter	3

(b) To incentivize significant tree retention, every significant tree that is retained shall reduce the required number of replacement trees by three trees.

(c) Replacement deciduous trees shall be fully branched, have a dominant leader branch, have a minimum caliper of one and one-half inches (as measured 24 inches above the root ball), and a minimum height of six feet at the time of planting as measured from the top of the leader branch to the top of the root ball.

(d) A replacement deciduous tree that has a minimum caliper of three inches (as measured 24 inches above the root ball) and a minimum height of eight feet at the time of planting as measured from the top of the leader branch to the top of the root ball may substitute for two required replacement trees.

(e) Replacement evergreen trees shall be fully branched and a minimum of six feet in height, measured from the top of the leader branch to the top of the root ball, at the time of planting.

(f) Replacement trees shall primarily be those species native to the Pacific Northwest. In making a determination regarding the species of replacement trees, the director shall defer to the species selected by the property owner unless the director determines that the species selected is unlikely to survive for a period of at least 10 years, represents a danger or nuisance, or would threaten overhead or underground utilities.

(g) The property owner shall maintain all replacement trees in a healthy condition. The property owner shall be obligated to replace any replacement tree that dies, becomes diseased, or is removed. Replacement trees shall not be removed except when they are moved to another location in accordance with this chapter.

(h) The director may authorize the planting of fewer and smaller replacement trees if the property owner can demonstrate the reduction is suitable for the site conditions, neighborhood character, and the purposes of this section, and that such replacement trees will be planted in sufficient quantities to meet the intent of this section. The director may require a certifying statement from a Washington State licensed landscape architect, Washington-certified professional horticulturalist (CPH), or certified arborist.

(3) If the site does not allow for planting of replacement trees, the trees may be planted (a) on an alternative site within the city, or (b) on public property (such as in a city park) subject to the approval of the public works director. If the trees are not planted on public property, guarantees shall be provided (such as a conservation easement) to ensure that the replacement trees will

not be removed prior to reaching 18 inches DBH (at which time they will be considered significant trees).

(4) The director shall not authorize the planting of shrubs or bushes in lieu of required replacement trees.

(5) For projects containing five or fewer significant trees, the required replacement trees planted shall be in addition to other required trees installed to satisfy street tree and landscaping buffer, parking lot, and other landscape area requirements. For projects on nonforested sites containing more than five significant trees, up to 75 percent of the required replacement trees to be planted may be satisfied by planting trees within required or proposed landscaping areas including but not limited to landscape buffers and parking lot islands as specified in Chapter 20.128 POMC. For projects on forested sites containing more than five significant trees, up to 100 percent of the required replacement trees to be planted may be satisfied by planting trees within required or proposed landscaping areas including but not limited to landscape buffers and parking lot islands as specified in Chapter 20.128 POMC. For the purposes of this section, a site is considered forested if it contains more than 20 significant trees per acre.

(6) Guidelines for Significant Tree Replacement. The following guidelines and requirements shall apply to significant tree replacement:

(a) When individual trees or tree stands are protected, replacement trees should be planted to reestablish or enhance tree clusters where they previously existed.

(b) Replacement trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements.

(c) Replacement trees shall be planted in areas that connect or are adjacent to native growth protection areas or other open space, where appropriate.

(d) Replacement trees shall be integrated into the required landscape plans, if any, for a development.

(e) Replacement trees to be planted next to or under power lines shall be selected with consideration of the trees' maturation and maintenance requirements.

#### **20.129.050 Retention and protection of significant trees associated with development proposals.**

(1) Significant Tree Retention Plan. The applicant or property owner shall submit a tree retention plan prepared by a certified arborist, horticulturalist, landscape architect, forester or other qualified professional concurrent with the underlying development permit application (such as a land disturbing activity, short subdivision, binding site plan, conditional use, building, or preliminary subdivision permit application), whichever is reviewed and approved first. The tree retention plan shall consist of:

(a) A tree survey that identifies the location, size, and species of individual significant trees or the perimeter of stands of trees on a site;

(b) Identification of the significant trees that are proposed to be retained; and

(c) The location and design of root protection during construction and development activities.

(2) Exemption. Significant tree retention plans shall not be required for the construction of a detached house or backyard cottage, but these projects shall comply with all other sections of this chapter.

(3) Protection of Significant Trees. To provide protection for significant trees that are to remain during and after development activity the following standards apply:

(a) Prior to construction, grading, or other land development, each root protection zone is identified with a temporary chain-link or orange mesh fence with a minimum height of five feet.

(b) No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the root protection zone.

(c) Alternative protection methods may be used if determined by the director to provide equal or greater significant tree protection.

**Department Response:** *As detailed in the arborist report/tree plan submitted for the project (Exhibit 20B), of the 672 significant trees documented on the site, the applicant is proposing to remove 473 trees. The resulting tree replacement required would be 522 and the number of saved trees is 199. The tree incentive for retaining 199 significant trees is 597, which is greater than the 522 replacement trees required. No additional significant tree replacements are required.*

**POMC 20.180 Concurrency.**

The purpose of this chapter is to implement the concurrency provisions of the transportation and utilities elements of the city's comprehensive plan and the water and sewer comprehensive plans, all in accordance with RCW 36.70A.070(6)(b). All applications that are not exempt under POMC 20.180.004 shall be processed under and shall comply with this chapter, which shall be cited as the city's "concurrency ordinance."

**Department Response:** *The proposed preliminary subdivision is subject to the provisions of Concurrency Management. The City has determined through review of the materials provided by the applicant that the project does not exceed the adopted level of service standards for transportation, consistent with the Development Agreement for traffic that was entered into by Kitsap County and GEM1 (its successors being City of Port Orchard and Amherst Holdings) (within Exhibit 27). Pursuant to section 11 of that Agreement, this application is consistent with the ULID #6 sub-area plan and additional transportation concurrency review is not required at this time.*

*The City of Port Orchard provides sewer service to the proposed subdivision. The proposed project has been identified as part of the "McCormick Woods Remaining Development Areas" as outlined in the 2018 City of Port Orchard McCormick Woods Lift Stations #1 & #2 Upgrade Agreement; as such no additional offsite public sewer system improvements outside of that agreement are required for the project. All proposed sanitary sewer system improvements shall comply with the most current Public Works Engineering Standards and Specifications.*

*The City of Port Orchard provides sewer service to the proposed subdivision. The proposed project has been identified as part of the City's 580-pressure water zone. Improvements to the 580-pressure zone are outlined as part of the 2007 Reimbursement Agreement for Utility System Improvement and subsequent amendments; as such, no additional offsite public water system improvements outside of that agreement are required for the project. All proposed water system improvements shall comply with the most current Public Works Engineering Standards and Specifications.*

*A Capacity Reservation Certificate for McCormick Parcel A Preliminary Subdivision was issued on July 10, 2020. (Exhibit 33)*

#### **4. Subdivision Regulations**

##### **POMC 20.88 Subdivisions- Preliminary Plats**

###### **20.88.010 Purpose.**

- (1) The purpose of this chapter is to adopt the process and procedures for the review and approval of subdivisions in a manner consistent with Chapter 58.17 RCW.
- (2) The provisions of this chapter describe the procedure that the city shall use to review and approve, conditionally approve, or deny proposed subdivisions.
- (3) This chapter contains the substantive requirements that apply to subdivisions. For properties within jurisdiction of the Shoreline Management Act, also see Chapter 20.164 POMC for applicable requirements.
- (4) Alterations and vacations of subdivisions shall follow the procedural requirements outlined in Chapter 20.96 POMC.

**20.88.020 Preliminary plat – Application required.** This portion of the POMC establishes the steps to be followed in the processing of preliminary plat applications consistent with POMC 23.20 – 23.50

**20.88.030 Preliminary plat – Submittal requirements.** This portion of the POMC establishes the form and application of a preliminary plat application, and what is required to create complete application.

###### **20.88.040 Preliminary Plat - Criteria for Approval.**

An applicant for a preliminary subdivision must demonstrate, and a preliminary subdivision shall not be approved by the city unless the city makes written findings and conclusions, that the application complies with all of the following criteria:

- (1) All applicable statutory provisions, including, but not limited to, RCW 58.17.195;
- (2) The city's zoning code, and all other applicable laws of the appropriate jurisdictions, including, but not limited to, the health department;
- (3) The city's comprehensive plan and all related elements, including, but not limited to, the comprehensive plan's capital facilities, water, sewer, and transportation elements;
- (4) The city's shoreline master program, and any other city-adopted plans;
- (5) There are adequate and available water, storm drainage, erosion control and sanitary sewage disposal to support and service the area of the proposed preliminary subdivision and that are consistent with current standards and plans as adopted in city code or ordinance;
- (6) All buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection, consistent with the city's comprehensive water system plan and POMC Title 13, Public Utilities;

- (7) All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment, consistent with the city's comprehensive sewer plan and POMC Title 13, Public Utilities;
- (8) Stormwater drainage improvements shall accommodate potential runoff from the entire upstream drainage area flowing through the subdivision and shall be designed to prevent increases in downstream flooding, in accordance with Chapter 20.150 POMC, Stormwater Drainage;
- (9) If the preliminary subdivision is in a flood control zone as defined in Chapter 86.16 RCW, the preliminary subdivision cannot be approved without the written approval of the State Department of Ecology;
- (10) There are no flood, inundation, or swamp conditions that preclude approval under RCW 58.17.120;
- (11) Proposed streets shall provide an available, safe, convenient and functional system for vehicular, pedestrian, and bicycle circulation; shall be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development. All streets must be clearly shown on the face of the plat; public and private streets shall be designated;
- (12) Provisions have been made for streets, utilities, street lighting, street trees, and other improvements that are consistent with the city's zoning code and all applicable design, engineering, and construction standards;
- (13) Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunication lines shall be constructed through the subject property in the preliminary subdivision to promote the logical extension of public infrastructure, consistent with the requirements of RCW 82.02.020 and all other legal requirements;
- (14) Provisions have been made for dedications, easements, and reservations;
- (15) The design, shape, and orientation of the proposed lots are appropriate to the proposed use. In addition to meeting the minimum lot size density requirement, each residential lot must provide a building envelope;
- (16) The subdivision complies with the relevant requirements of the city's zoning code, all other relevant provisions of the POMC, and all other relevant policies and administrative rules of the city;
- (17) Appropriate provisions for maintenance and monitoring of privately-owned common facilities have been made;
- (18) Appropriate provisions, in accordance with RCW 58.17.110, are made for:
- (a) The public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys or 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 such subdivision and dedication;

(19) The applicant agrees to install and dedicate all public facilities prior to the city's approval of the final plat, unless the applicant has provided the necessary security for the future construction of any public facilities not yet installed or dedicated at the time of final plat pursuant to Chapter 20.90 POMC;

(20) The 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.

**20.88.050 Preliminary Plat - Dedications.**

(1) Dedication of land to any public body, provision of public facilities to serve the subdivision, and/or impact fees pursuant to this title may be required as a condition of subdivision approval. Proposed dedications shall be clearly shown on the face of the preliminary plat.

(2) Pursuant to RCW 58.17.020, if the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city may adopt the designated name.

**20.88.060 Preliminary plat – Timeline for approval.**

A preliminary plat application shall be approved, approved with conditions, or denied within 120 days after an application has been determined to be complete pursuant to POMC 20.24.050, unless the applicant consents to an extension in writing of such time period; provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 120-day period shall not include the time spent preparing and circulating the environmental impact statement by the city or time during which the applicant has been asked to provide additional information to the city but has not yet responded.

**20.88.070 Preliminary plat – Effect of approval – Expiration.**

(1) Approval of the preliminary subdivision by the city shall constitute direction to the applicant to develop construction plans and specifications for the required public facilities, in strict conformance with the approved preliminary subdivision, the street and utility standards adopted by the city, the city's design and construction standards, and any special conditions imposed on the approval.

(2) Permission shall not be granted for installation of required public facilities until all construction plans and specifications have been approved in writing by the city engineer, pursuant to Chapter 20.98 POMC.

**26.20.090 Final plat – Deadline for filing.**

(1) General. The applicant shall submit to the department a final plat that meets the requirements of this chapter and the preliminary subdivision approval, together with required recording fees, within the time period as set forth in RCW 58.17.140 following the date of preliminary plat approval or the preliminary subdivision approval shall be deemed void and any development rights that have vested in the applicant shall be considered abandoned.

(2) Extension. The applicant may file a request to extend the preliminary subdivision approval for up to one year. The request must be delivered in writing to the department at least 30 days prior to expiration of the preliminary plat. The department shall forward the request to the city council within 30 days of receipt. The city council shall grant approval of the extension if it is shown that the applicant has attempted in good faith to submit the final plat within the five-

year period. If the final plat has not been submitted to the city council within any extended period, the preliminary subdivision approval shall terminate in accordance with subsection (1) of this section.

**Department Response:** *The application for Preliminary Plat was received by the City of Port Orchard on November 15, 2019. City staff determined the submittal did not meet the requirements of POMC 20.88.030 on December 13, 2019. The items requested in that Determination were submitted on December 19, 2019 and the application was subsequently determined to be “complete” on January 2, 2020 (Exhibit 6). The City provided Notice of Application on January 24, 2020 consistent with the requirements of POMC 20.24 (Exhibit 7). 101 comments were received in response to this Notice which are included as Exhibit 11. Although the application was determined complete and the Notice of Application was provided, review by the City and affected agencies required revisions to the application. The applicant and the City worked together to refine the content of the application during the following months resulting in revised materials being submitted by the applicant on March 25, 2020, June 8, 2020, and July 7, 2020. The proposal originally included the subdivision of the property into 58 single-family lots and was later revised to a 53-lot layout based on citizen comments received during the Notice of Application process.*

## 5. Environmental Regulations

- **POMC 20.162 Article V Geologically Hazardous Areas**

This chapter applies to all regulated uses included in the critical areas ordinance within 200 feet of areas designated as geologically hazardous areas, as categorized in POMC 20.162.076. The intent of this chapter is to:

- (1) Provide standards to protect human life and property from potential risks;
- (2) Control erosion, siltation, and water quality to protect fish and marine shellfish;
- (3) Provide controls to minimize erosion caused by human activity;
- (4) Use innovative site planning by placing geologically hazardous areas and buffers in open space and transferring density to more suitable areas on the site.

**Department Response:** *The site does not contain any areas that meet the definition of a “critical area” under the Port Orchard Municipal Code.*

## III. PUBLIC COMMENT

### A. Notice of Application

Upon Determination of Complete Application, Notice of Application was issued January 24, 2020 (Exhibit 7). 101 comments were received in response to this Notice which are included as Exhibit 11.

### B. SEPA MDNS

Invitation to comment was provided pursuant to WAC 197-11-502. The City provided notice of the issuance of a SEPA Mitigated Nonsignificance and requested comments from surrounding property owners, interested parties, and affected agencies on June 19, 2020. One comment was

received from the Washington State Department of Archaeology & Historic Preservation which can be found as Exhibit 23. The letter states that a survey conducted immediately across SW Old Clifton Road last year had a prehistoric artifact recovered from one of the test probes. It is the recommendation of DAHP that a professional archaeological survey of the project area be conducted prior to ground disturbing activities. They also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues. This information is recommended as a condition of approval of this preliminary subdivision.

On July 6, 2020, the City issued a revision to the MDNS that was issued on June 19. The revision clarified the SEPA appeal process in accordance with POMC 20.160.240(6)(b). The SEPA appeal period expired at 4:30pm on July 13, 2020. No appeals of the SEPA Determination were filed.

**C. Notice of Public Hearing Before the Hearing Examiner**

A Notice of Public Hearing before the Hearing Examiner was posted in the newspaper of record on July 3, 2020. Notice of the public hearing before the Hearing Examiner was also mailed and e-mailed to all surrounding property owners, interested parties, and commenting agencies on July 2, 2020. Notice of the Hearing was also added to the City's website on July 6, 2020.

**D. Public Comment**

The Department of Community Development received 101 comments in response to the Notice of Application (Exhibit 11). One comment was received during the SEPA Comment period from the Washington State Department of Archaeology & Historic Preservation (Exhibit 23). 57 comments were submitted after the close of the Notice of Application comment period and prior to the issuance of the SEPA Determination. Those comments are included as Exhibits 12-15, 17, and 18.

**IV. FINDINGS**

- A. The City of Port Orchard received an application for preliminary subdivision on November 15, 2019 (Exhibit 1A-H).
- B. The City issued a Determination of Incomplete Application on December 13, 2019 (Exhibit 3).
- C. Revised materials were submitted by the applicant on December 19, 2019 (Exhibit 4A-G).
- D. The City issued a Determination of Complete Application on January 2, 2020 (Exhibit 6).
- E. The City of Port Orchard provided Notice of Application consistent with POMC 20.24 and 20.25 on January 24, 2020 (Exhibits 7-10).
- F. The City of Port Orchard requested additional information on the project on March 3, which the applicant responded to on March 25, 2020 (Exhibit 20A-G).
- G. The City of Port Orchard requested additional information on the project on April 6 and April 21, which the applicant responded to on June 8, 2020 (Exhibit 21A-D).
- H. A SEPA Mitigated Determination of Non-Significance was issued on June 19, 2020 and notification consistent with POMC 20.25 and POMC 20.160 was provided. (Exhibit 22, 26)
- I. A revised SEPA MDNS was issued on July 6, 2020 to provide appeal instructions on the SEPA document (Exhibit 30). This document was distributed consistent with POMC 20.25 and POMC 20.160.

- J. Notice of Hearing was mailed to surrounding property owners and parties of interest on July 2, 2020. (Exhibit 24)
- K. Notice of Hearing was published in newspaper of record on July 3, 2020. (Exhibit 28)
- L. A review memo was provided by the City of Port Orchard Public Works Department which provided preliminary plat conditions as a result of their review of the June 8, 2020 plans (Exhibit 37)
- M. A review letter was provided by South Kitsap Fire and Rescue which provided findings and recommended conditions as a result of their review of the June 8, 2020 plans (Exhibit 38)
- N. The proposal is consistent with the Port Orchard Municipal Code and the Comprehensive Plan.
- O. The application for subdivision has been properly processed POMC Title 20 Subtitle II. Permitting and Development Approval, and POMC Title 20 Subtitle V. Division of Land.
- P. The procedures for review of this application are found in POMC 20.24.
- Q. This proposal, as conditioned through the recommended conditions in Section V of this staff report, is in conformance with applicable City of Port Orchard ordinances and regulations addressed above in this document.
- R. This proposal is properly before the Hearing Examiner for a final decision in accordance with applicable state and local laws.

**V. RECOMMENDATION TO THE HEARING EXAMINER**

Approval with the following conditions:

- A. **SEPA MDNS.** Compliance with the conditions of the MDNS issued July 6, 2020 (issuance date of document is July 3 which was an observed holiday. Document transfers to next business day automatically), as follows:

**Impact: Erosion**

Erosion has been identified as a potential impact of the proposed development. The Environmental Checklist states that erosion could occur depending on the time of year that construction occurs.

**Mitigation:**

1. In order to mitigate the potential for erosion, all clearing and grading activity shall be limited to the period between May 1<sup>st</sup> to October 1<sup>st</sup>, unless the applicant provides an erosion and sedimentation control plan prepared by a professional engineer licensed in the state of Washington that specifically and realistically identifies methods of erosion control for wet weather conditions. The site shall be stabilized by October 1<sup>st</sup> in the absence of a sufficient erosion and sedimentation control plan.
2. Earthwork at the site shall conform to the City of Port Orchard grading and drainage requirements.
3. For any clearing, grading, excavating, or stockpiling of fill material, the applicant shall employ Best Management Practices (BMP) including but not limited to: silt fencing, stabilized construction entrance, sediment trap and similar measures and stabilize any exposed soils in accordance with City Stormwater requirements.
4. A construction stormwater general permit from the Department of Ecology must be obtained for any disturbance one acre (43,560 Square feet) or more of land through clearing, grading, excavating, or stockpiling of fill material. Department of Ecology permit

information may be obtained at:

<http://www.ecy.wa.gov/programs/wq/stormwater/index.html>

5. Erosion control measures must be installed and inspected by City Staff prior to any site development activity.

**Impact: Stormwater**

The proposed development will create new impervious surfaces and stormwater runoff.

**Mitigation:**

All subdivision improvements to be constructed shall be designed in accordance with the applicable City of Port Orchard Stormwater Management Manual.

**Impact:** Loss of wildlife habitat and associated aesthetic impact from clearing has been identified as a project impact by numerous commenters. A Fish and Wildlife Habitat Assessment was submitted with the application indicating that there are no critical or endangered species inhabiting the site, however the SEPA checklist does identify other species (songbirds, deer, etc.) that inhabit the site.

**Mitigation:**

City code requires that a 53-lot subdivision provide 15,250 square feet of open space, with 7,625 square feet of that space designed as active open space. The project shall provide an additional 15,250 square feet (double the code requirement) of open space to remain as passive open space.

**B. LAND USE**

1. 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.
2. Submit a coordinated sign plan for street signs, stop signs, and any traffic regulatory signs at the time of Land Disturbing Activity Permit application (LDAP).
3. A professional archaeological survey of the project area shall be conducted prior to ground disturbing activities. The preparer of this report shall include consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

**C. LANDSCAPING**

1. 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 20.128.050. The location and placement of trees in intersection sight triangle is subject to the Public Works Director's approval. Any required street tree on a lot shall be installed and inspected prior to the issuance of a Certificate of Occupancy for the primary structure on that lot.
2. Prior to Final Plat approval, any landscaping that has not been installed must be bonded according to provisions of POMC 20.128.110. The landscape bond must be submitted on the form prescribed by the City. Additionally, consistent with POMC 20.128.120, prior to granting a (permanent) certificate of occupancy and/or granting final approval of site improvements, the owner of the subject property shall provide a two-year landscape maintenance bond, cash set-aside, or other assurance acceptable to the city in an amount equal to 125 percent of the estimated landscaping and installation costs for the project.

#### **D. FIRE PREVENTION CODE**

1. "Road A" shall be constructed to measure at least 20 feet in width from face of curb to face of curb.
2. The City shall review the "Road A" construction plans and verify that the road is designed and constructed to support 75,000 lbs. in fire apparatus weight.
3. "Road A" shall not exceed a 12% grade when constructed as measured from the centerline.
4. A note shall be recorded on the face of the final plat indicating that lots 47, 48, 49, 50, and 52 shall be equipped with an approved fire sprinkler system designed in accordance with the version of the building and fire codes in place at the time of complete building permit application.
5. The driveway serving lots 47, 48, 49, and 50 shall be at least 15 feet wide.
6. Fire hydrants shall be installed in accordance with the City's adopted standards.
7. "No parking fire lane" signs shall be installed along Road A in accordance with the 2015 IFC Appendix D section D103.6.

#### **E. PUBLIC WORKS**

##### GENERAL

1. 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.
2. 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.
3. Prior to approval of the construction plans, all off-site easements must be recorded and submitted to the City.

##### STORMWATER

1. The information provided demonstrates this proposal is a *Major Development* as defined at the time of complete application, and as such will require a Major Land Disturbing Activity Permit and a Storm Drainage Permit.
2. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with the most current City of Port Orchard Public Works Engineering Standards and Specifications. 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.
3. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements as identified within a 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.
4. 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/> or by calling Noel Tamboer at 360-407-7229, email [noel.tamboer@ecy.wa.gov](mailto:noel.tamboer@ecy.wa.gov). This permit is required prior to issuance of the Stormwater Permit.

5. The project site has been identified to have a high potential for sediment transport during construction as indicated by the Department of Ecology Western Washington Phase II Stormwater Permit Appendix 7. In addition, the project site discharges within ¼-mile of a Type F stream. As such, the following conditions shall apply to the construction of the project:
  - a. If land disturbing activities and utility construction is planned/has potential to extend into the wet season (October 1-May 1) the project shall be phased in order to retain undisturbed portions of the site during construction; the total area to be disturbed at one time shall be 5-acres. Prior to moving to subsequent construction phases, the project shall have stabilized the disturbed areas within the current construction phase.
  - b. Straw shall not be utilized as BMP C121: Mulching based on observed ineffectiveness and failures for Major Developments. Alternative materials listed within BMP C121: Mulching shall be utilized for land cover/stabilization.
6. 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.
7. 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/ROADS

1. The proposed project is located within the McCormick Urban Village as defined in the 2005 McCormick Urban Village Development Agreement for Transportation (Exhibit 27). The agreement covers the traffic improvements required for a total increase of 3601 additional dwelling units within the McCormick Urban Village area. At this time, the total number of additional dwelling units has not exceeded 3061 and as such, no additional offsite traffic improvements are required for the project.
2. The City reserves the right under section 9 of the 2005 McCormick Urban Village Development Agreement for Transportation to require additional Right-of-Way dedication for the future roundabout at Old Clifton Road SW and SW McCormick Woods Drive. The City is currently evaluating the future project to determine the required area and the dedication shall be included as part of final plat.
3. Roads shall be designed in accordance with the most current City of Port Orchard Public Works Engineering Standards and Specifications. 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.
4. The City has received a preliminary deviation request to omit the required landscape strip along the proposed street adjacent to the stormwater facility. The request has received a preliminary approval at this time based on the site constraints and other warrants. Final review and approval shall be completed with the Land Disturbing Activity Permit as outlined in POMC and the Public Works Standards and Specifications.
  5. Construction of handicap access facilities within existing or proposed City right-of-way shall conform to the requirements of the Americans with Disabilities Act.
  6. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.
  7. Wheelchair ramps shall be provided on all corners of intersections where applicable. Include on the plan set curb ramp details that meet the requirements of the Americans with Disabilities Act and WSDOT Standard Plans. Crossings shall be marked at controlled stop locations only.
  8. Any required sidewalk shall be constructed prior to final roadway paving. This note shall appear on the face of the final construction drawings.
  9. The developer's engineer shall certify that there is adequate entering/exiting sight distance at the intersections of internal plat roads and McCormick Woods Drive SW & St Andrews Drive SW. 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 Public Works Engineering Standards and Specifications.
  10. Street lighting shall be installed as required by the City of Port Orchard Public Works Engineering Standards and Specifications.
  11. Any work within the City right-of-way shall require a permit to perform work on City right-of-way with associated maintenance and performance bonds. This application to perform work in the right-of-way shall be submitted separately.
  12. Developer shall furnish and install all street signage required.

#### SEWER

1. The proposed project has been identified as part of the "McCormick Woods Remaining Development Areas" as outlined in the 2018 City of Port Orchard McCormick Woods Lift Stations #1 & #2 Upgrade Agreement; as such no additional offsite public sewer system improvements outside of that agreement are required for the project.
2. All proposed sanitary sewer system improvements shall comply with the most current Public Works Engineering Standards and Specifications.

#### WATER

1. The proposed project has been identified as part of the City's 580-pressure water zone. Improvements to the 580-pressure zone are outlined as part of the 2007 Reimbursement Agreement for Utility System Improvement and subsequent amendments; as such, no additional offsite public water system improvements outside of that agreement are required for the project.
2. All proposed water system improvements shall comply with the most current Public Works Engineering Standards and Specifications.

#### **F. SURVEY**

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

#### **G. SOLID WASTE**

1. Contact the solid waste service provider Waste Management at (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.

#### **H. ADDRESSING**

1. All addressing shall be assigned by the City. An address request form is required.
2. A Road Name Application form shall be submitted with the Land Disturbing Activity Permit application.