



CITY OF PORT ORCHARD
Planning Commission
216 Prospect Street, Port Orchard, WA 98366
(360) 874-5533 planning@cityofportorchard.us

PLANNING COMMISSION MEETING AGENDA

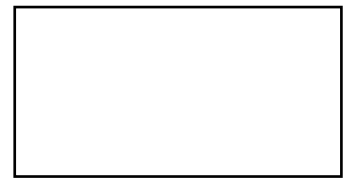
Tuesday, October 6, 2020
6:00 pm

This meeting will be held remotely via telephone and Zoom video conferencing pursuant to the Governor's "Stay Home, Stay Healthy Proclamation" No. 20-25, as amended.

Zoom: <https://us02web.zoom.us/j/84360792084>

Meeting ID: 843 6079 2084
Dial-in: +1 253 215 8782

- 1. Call to Order: 6:00 p.m.**
Pledge of allegiance
- 2. Audience Comments – Not on the Agenda**
Please limit comments to **3 minutes**.
- 3. Approval of Minutes from September 1, 2020**
- 4. Business Items**
 - (a) Amendments to POMC Chapter 20.26 Development Agreements: Public Hearing/Review/Recommendation
 - (b) 2020 POMC Title 20 "Housekeeping" Amendments: Public Hearing/Review/Recommendation
- 5. Administrative Items**
 - (a) November 2020 Alternative Meeting Date
 - (b) Laptops/Surfaces for Planning Commissioners
- 5. Adjourn**



Planning Commission Meeting Minutes
September 1, 2020
Zoom Teleconference

COMMISSIONERS:

Present: Phil King, Joe Morrison, Annette Stewart, Trish Tierney, Mark Trenary
Absent: Stephanie Bailey, Dave Bernstein, Suanne Martin Smith

STAFF PRESENT:

Community Development Director Nick Bond, Long Range Planner Keri Sallee, Planning Intern Josie Rademacher

CITY CONSULTANTS PRESENT:

Mitch Ptacek and Rich Schipanski, GGLO; Andrea MacLennan and Jeff Parsons, Herrera Environmental

1. CALL TO ORDER:

Chair Stewart called the meeting to order at 6:07 p.m., and read the “Stay Home, Stay Healthy” remote meeting protocol into the record. Stewart then led the Pledge of Allegiance.

2. PUBLIC COMMENTS: There were no public comments from the audience.

3. APPROVAL OF MINUTES FROM AUGUST 4, 2020: Commissioner Tierney made a motion to approve the minutes of the August 4, 2020 Planning Commission meeting, as presented. Commissioner King seconded the motion. The motion passed unanimously.

4. BUSINESS ITEMS:

A. Downtown and County Government Campus Subarea Plan and Planned Action EIS – Scoping Meeting and Request for Comments.

Chair Stewart opened the scoping meeting for the Downtown and County Government Campus Subarea Plan and Planned Action EIS.

Mitch Ptacek, a consultant with GGLO, gave a presentation on the subarea plan and EIS process. The study area is approximately 329 acres, and includes the existing Downtown and County Campus centers, plus additional land areas to the south and east, on either side of the Blackjack Creek corridor. Project objectives include establishing a vibrant urban center, increasing housing consistent with the goals of the City’s E2SHB grant and supporting walkable neighborhoods, accommodating future regional growth, and reducing barriers to future development with a planned action EIS. Public outreach and engagement will be an important part of the planning

process, with three online surveys and three community meetings as well as public hearings. An initial public survey hosted in June-July 2020 indicated that key topics of importance are improving recreational opportunities and enhancing existing waterfront open space; creating a downtown waterfront destination; ensuring that the scale and character of new development is consistent with the existing neighborhood; maintain downtown parking; improve safety and security at parks and open space; and improve multi-modal connections throughout the study area.

Rich Schipanski with GGLO said that the purpose of the EIS is to study the three proposed alternatives and the potential environmental impacts from each one. (Alternative 1 = No Action, Alternative 2 = Higher Capacity Residential Focus, Alternative 3 = Higher Capacity Mixed-Use Focus.) For each of these alternatives, impacts to population and employment, housing, aesthetics, transportation, public services, utilities and land use must be evaluated. The public is invited to submit comments on these alternatives through September 4, 2020.

Chair Stewart opened the meeting for public comment.

Geri Harmon said that very few people were aware of the subarea planning process and the scoping meeting, or received notification of it. There need to be many meetings, not just a few. The survey should have allowed people to start taking it and then save their answers and come back to finish it later, but she could not get back into the survey the next day to finish hers. She would like to know who is driving this process – is it developers? Developers have offered to buy her property and those of other people she knows, so do the developers know something and they are in the dark? The people of Port Orchard should be the driving force, not developers or the PSRC.

In response to Ms. Harmon, Long Range Planner Sallee said that notification was mailed in the form of a letter sent by USPS to all property owners within the current Downtown and County Campus centers and the expanded study areas, and an additional 800 feet beyond those boundaries. Addresses were obtained from the Kitsap County Assessor's office prior to the mailout.

Dana Harmon and Kimberly Phillips said that they did not receive notice of the scoping meeting, and their neighbor Nolan Larson did not get a notification either. Sallee asked that all of these meeting attendees, and any other persons attending the meeting, contact her at planning@cityofportorchard.us if they want to be placed on the project email list for all further project notices and communications.

Michael Hendrickson said he had questions about the areas depicted as “high hazard”. Community Development Director Bond said that these are the areas designated as geologically hazard areas in the City's critical areas mapping, such as steep slopes on high erodible soils. The assumptions for development potential in those areas are more limited than unconstrained areas, and a geotechnical report is generally required to ensure safe development.

Patrick Moriarty asked if eminent domain acquisition was proposed in the East Downtown area or other areas of this project, and how views might be impacted. Bond said that no eminent

domain action was proposed, and the existing view protection overlay district that protects downtown hillside views is not proposed to be altered. Downtown height limits will vary from 3-5 stories and will attempt to minimize view obstruction. Hearing this concern about view impacts is one of the reasons for having a scoping meeting.

Kat Sarensen asked if property taxes will go up if zoning changes are made. Bond said that no zoning changes have been proposed at this time, but if property owners have concerns about specific properties and/or zoning changes, those comments can be made during this planning process.

Tamara Peterson said that she has one of the few residences on Bay Street, and it appears that her property is intended for commercial use. What does that mean, and will eminent domain be used on the property? Bond said that any residential property that is a legal nonconforming use can be used and maintained in perpetuity. In some parts of the United States, local governments can use eminent domain authority to acquire and aggregate properties for private development and redevelopment, but that is not allowed under the State of Washington's constitution. The City is only creating conditions where a property owner could redevelop or sell a residential property for other uses if it is zoned commercial. Bond is not aware of any specific developers who are trying to acquire properties downtown for redevelopment.

Bond said that the Legislature gave grants of \$50,000 to cities (the E2SHB grant) to study housing affordability and provide additional housing opportunities in urban areas. This grant is part of the reason why the City is undertaking the subarea planning process. It is not being pushed by any developers. This scoping meeting is the first public meeting, and there will be more meetings with additional opportunities for public comment and involvement.

Dana Harmon asked if affordable housing was being considered for the McCormick Woods area, or only for the downtown and older residential areas. Bond said that affordable housing is not necessarily "low income housing"; according to state law it means housing that is affordable to people making between 80% -115% of the median income for Kitsap County. McCormick North has less expensive homes than what has been built in the main part of McCormick Woods, and has a multifamily component that will be built within a few years. The City is not trying to put all "low income" or "affordable" housing in one area of Port Orchard. The scope of the project, however, is more than just providing housing – it is about making downtown Port Orchard a great place to live.

Bond invited the public to comment on any or all of the alternatives, and suggest changes, by the deadline of September 4. Ptacek said that there will be another comment period and public notice when the draft EIS is issued, and possibly other meetings for the subarea plan as well.

In further response to concerns about view impacts, Bond screen-shared the maps in Chapter 20.38 POMC for the Downtown Height Overlay District and the View Protection Overlay District, which restrict height limits downtown and protect downtown hillside views.

B. Continued Public Hearing/Recommendation: Ruby Creek Neighborhood Subarea Plan and Development Regulations.

Bond said that when the Ruby Creek Subarea Plan public hearing was opened in August, it did not include the associated development regulations, which were still under preparation. The development regulations are now complete, and a new Notice of Hearing was issued for the continued public hearing on the subarea plan, as well as for the development regulations.

Bond noted that a complete set of comments provided during the August hearing, as well as comments received by DCD before the September Planning Commission meeting, have been provided to the Planning Commissioners in summary form for their consideration. In response to some of the comments received in August, plan revisions were made to address traffic volume and safety concerns in several locations.

Chair Stewart reopened the public hearing.

Brianne Kelsey represents Tarragon which recently acquired an 18-acre property at the north end of the neighborhood intended for a 216-unit multifamily development (the “Tallman property”). They support the subarea plan and look forward to moving forward with their project.

Ron Rice said a Zoom-type public hearing is inadequate. All the information that the public shares in conversation together outside of testimony into a microphone doesn’t exist. He would like to know how many lanes Sidney Road SW would be widened into – 3 or 5? He supports commercial development without restrictions in this area. Who is going to put infrastructure into this area if the developers can’t afford it?

Dick Brown said he annexed his property in this area into the City, got it zoned commercial, and has been working on a project for it for about 24 years. He and others were not notified about this plan. He is opposed to any restrictions on how property owners can use their properties, but mostly has a problem with the traffic issues, which are not solvable without road improvements to Sidney and Sedgwick that include crossing the creek.

Susan Schultheis said that the water level in Ruby Creek is lower now than they have ever seen it. She believes it is because of development off Glenwood Road, which has also caused their water table to drop. It is a nightmare to get in and out of Sidney Glen Elementary at Birch Lane, and a left turn can take 30 minutes. With current and future development, she has doubts that the creek will be safeguarded the way they had hoped it would be.

Dick Brown said four or five property owners are creating improvements to Ruby Creek north of where Ms. Schultheis lives on Birch Lane. There is a large wetland created by Bob Wiltermood that cuts down on the water flow to lower Ruby Creek.

Ron Rice asked who would maintain Sedgwick Road? And who says that a bridge crossing Blackjack Creek would cost \$25 million?

In response to the above questions, Bond said that Sidney Road SW is identified to be a 3-lane road with a center turn lane and landscape islands, bike lanes, sidewalks and landscape strips. The road will be tapered to 2 lanes where it crosses Ruby Creek to minimize impacts. As always in Port Orchard, it is intended that development will pay for development in terms of utility installation and road improvements. Sewer and water connection fees, and traffic impact fees, will pay for many of the necessary improvements that are included in the City's utility plans and transportation improvement plan. The City could also issue bonds for some of these improvements. The Sidney Road design has been included in the City's 2021 budget so that the City can pursue grant opportunities to fully build the road. Landowners could also join in a local improvement district (LID) for improvements such as a sewer lift station. All of the needed improvements add up to \$40 or \$50 million. Sedgwick Rd within City boundaries will be maintained by the City. As a result of comments received at the August hearing, a goal was added to the plan to prioritize adding capacity to Sedgwick Rd and to continue lobbying WSDOT to improve the SR-16 interchange. With regard to protection of Blackjack and Ruby Creeks, the maps included in the plan show a 150-ft buffer on each side of the creeks. A public park, to be established through park impact fees, to be located at the confluence of the creek will also protect this area from development. He will support adding an additional goal to the plan that addresses traffic safety improvements at the intersection of Sidney and Birch.

Chair Stewart closed the public hearing. Commissioner Trenary made a motion to recommend that the City Council approve the proposed Ruby Creek Neighborhood Subarea Plan and development regulations, with an additional goal addressing traffic safety at the Sidney and Birch intersection. Commissioner Morrison seconded the motion. The motion passed unanimously.

- C. Shoreline Master Program Update: Impacts of Sea Level Rise on City Shoreline.** Andrea MacLennan with Herrera Environmental gave an overview of a report commissioned by the City to evaluate the effects of future sea level rise on the City's downtown shoreline, as part of the City's required 2021 periodic Shoreline Master Program (SMP) update. The report identifies the areas of downtown Port Orchard that are most likely to be impacted by sea level rise, evaluates current flood hazards and how sea level rise could worsen those risks, identifies vulnerable infrastructure such as stormwater outfalls and roads, and provides recommendations for code revisions and future management of identified hazards. The sea level along Sinclair Inlet is expected to rise by 0.7 feet by 2050 and 2 feet by 2100, with potential "high end" rises of 1.3 and 4.8 feet respectively. Storm surges are also likely to become more damaging when combined with the rising sea level. Large areas of the downtown waterfront park and parking lot areas, businesses, and infrastructure will become more vulnerable to marine flooding. Access to the wastewater treatment plant may also become an issue during storm and flooding events. Increased precipitation and vegetation changes, including increased salinity further up the riparian corridor, may affect erosion and slope stability in the Blackjack Creek ravine upslope from the estuarine mouth. As part of their report, Herrera has recommended that updated federal FIRM mapping should be formally adopted by the City, and that all shorelines in Port Orchard should be classified in the SMP as Coastal High Hazard Areas.

ADJOURN: Chair Stewart adjourned the meeting at 8:12 pm.

Annette Stewart, Chair

Nick Bond, Community Development Director



CITY OF PORT ORCHARD
DEPARTMENT OF COMMUNITY DEVELOPMENT

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PLANNING COMMISSION STAFF REPORT

Agenda Item No:	<u>4(a)</u>	Meeting Date:	<u>10/6/2020</u>
Subject:	<u>Amendments to Chapter 20.26 POMC - Development Agreements</u>	Prepared by:	<u>Nick Bond, Development Director</u>

Issue: Chapter 20.26 POMC currently contains standards and procedures governing the City's use of development agreements, which can be entered into between the City and applicants to provide flexibility in the application of development standards. The City Council, City Attorney and DCD staff have identified a number of proposed improvements to the existing code to clarify the standards that may be addressed in a development agreement, to provide more specificity on the application and processing requirements and the decision type, and to strengthen requirements for additional public benefit for development agreement extensions.

The Planning Commission is requested to hold a public hearing, review the proposed amendments to Chapter 20.26, and make a recommendation of approval to the City Council.

Recommendation: Approve an ordinance adopting the proposed amendments to POMC Chapter 20.26, Development Agreements.

Suggested Motion: "I move to recommend that the City Council approve an ordinance adopting the proposed amendments to POMC Chapter 20.26, Development Agreements."

Attachments: Ordinance

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO DEVELOPMENT AGREEMENTS; AMENDING SECTION 20.22.020 OF THE PORT ORCHARD MUNICIPAL CODE FOR CONSISTENCY WITH THE APPEAL PROVISIONS FOR DEVELOPMENT AGREEMENT CONTAINED IN CHAPTER 20.26 OF THE PORT ORCHARD MUNICIPAL CODE, AMENDING PORT ORCHARD MUNICIPAL CODE CHAPTER 20.26 TO ADD CLARITY ON THE USE AND PROCEDURES FOR DEVELOPMENT AGREEMENTS AND TO MAKE SUCH AGREEMENTS CONSISTENT WITH CURRENT LAW, AMENDING SECTIONS 20.26.010, 20.26.030, 20.26.050 AND ADDING NEW SECTIONS 20.26.060 AND 20.26.070; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to RCW 36.70B.170, the City Council has the authority to review and enter into development agreements that govern the development and use of real property within the City; and

WHEREAS, such agreements are advantageous to both municipalities and applicants by facilitating certainty and stability in the land use permitting process, while also providing flexibility in the innovative application of local development standards, often leading to enhanced project design and infrastructure improvements for the public; and

WHEREAS, the City Council adopted standards and procedures governing the City's use of development agreements, codified at Chapter 20.26 of the Port Orchard Municipal Code (POMC); and

WHEREAS, the City Council desires to adopt the amendments to those regulations set forth in this ordinance to enhance the City's ability to utilize development agreements for the benefit of the City and public; and

WHEREAS, this Ordinance was submitted to the Department of Commerce for review on April 2, 2020, and review was granted on April 3, 2020; and

WHEREAS, on April 17, 2020, the City's SEPA official issued a determination of nonsignificance for the proposed revisions, and there have been no appeals; and

WHEREAS, the Planning Commission conducted a public hearing on the substance of this Ordinance on XXXX, and recommended adoption by the City Council; and

WHEREAS, the City Council, after careful consideration of the recommendation from the Planning Commission, all public comment, and the Ordinance, finds that this Ordinance is consistent with the City's Comprehensive Plan and development regulations, the Growth

Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best interests of the residents of the City and further advance the public health, safety and welfare; **NOW, THEREFORE,**

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

SECTION 1. Findings and Recitals. The recitals set forth above are hereby adopted and incorporated as findings in support of this Ordinance.

SECTION 2. Section 20.22.020 of the Port Orchard Municipal Code is hereby amended to add a footnote “2” and 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

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Building Permit ¹ (Subtitle X of this title) Binding Site Plan, Final	Short Plat, Preliminary, Alteration of Preliminary, Alteration of	Preliminary Plat, Preliminary Plat Major Modifications, Alteration of Final, Vacation of Final	Final Plat (Chapter 20.90 POMC) Site-Specific Rezone without Comprehensive Plan	Development Agreement (Chapter 20.26 POMC)

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
(Chapter 20.94 POMC) Preliminary Plat – Minor Modifications (Chapter 20.88 POMC) Minor Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.1 00) Boundary Line Adjustment (Chapter 20.84 POMC) Code Interpretation (Chapter 20.10 POMC) Legal Nonconforming Permit (Chapter 20.54 POMC) Short Plat, Final (Chapter 20.86 POMC) Sign Permit (if SEPA not required) (Chapter 20.132 POMC)	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 20.150 POMC) Sign Permit (if SEPA required) (Chapter 20.132 POMC) Shoreline Substantial Development Permit, Administrative (Chapter 20.164 POMC)	(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 Nonadministrative 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 20.38.860)	Amendment (Chapter 20.42 POMC)	Comprehensive Plan Amendment – Land Use Map Amendment, Text Amendment (Chapter 20.04 POMC) Legislative Zoning Map Amendment (Chapter 20.06 POMC) POMC Title 20 Code Amendment (Chapter 20.06 POMC) Annexations ²

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Sign Variance (Chapter 20.132 POMC) Shoreline Permit Exemption (Chapter 20.164 POMC) Temporary Use Permit, Extension (Chapter 20.58 POMC)	Major Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.10 0) Variance – Administrative (Chapter 20.28 P OMC)			

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.127.030), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180 POMC), 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).

¹ 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.

² A Development Agreement that is consolidated with a Type I, II, III, or IV project permit application may be appealed pursuant to chapter 36.70C RCW.

SECTION 3. Amendment. Chapter 20.26 of the POMC is hereby amended to read as follows:

POMC 20.26

~~PERMITTING AND DEVELOPMENT APPROVAL – DEVELOPMENT AGREEMENTS~~

DEVELOPMENT APPROVAL – DEVELOPMENT AGREEMENTS

Sections:

20.26.010 ~~Intent and discretionary nature.~~ Purpose and authority.

20.26.020 Form of agreement, effect and general provisions.

20.26.030 Application requirements.

20.26.040 Phasing.

20.26.050 Processing procedures and appeals.

20.26.060 Discretionary legislative action.

20.26.070 Unauthorized fees prohibited.

20.26.010 ~~Intent and discretionary nature.~~ Purpose and authority.

The purpose of this chapter is to authorize the use of development agreements, consistent with RCW 36.70B.170 through 36.70B.210. The city may, but under no circumstances is required to, enter into a development agreement with a person having ownership or control of real property within the city. The development agreement may address such project elements as those set forth herein, pursuant to RCW 36.70B.170B(3). The development agreement shall be consistent with the applicable development regulations of the city. The consideration provided by the property owner for the city's decision to enter into the development agreement may vary, depending on the benefit the development agreement will provide to the city and/or the public in general.

20.26.020 Form of agreement, effect and general provisions.

(1) Form. ~~All development agreements shall be on the standard form approved in advance by the city attorney for this purpose.~~ A development agreement shall set forth the development standards and other provisions that apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.

(a) For the purposes of this chapter, "development standards" may include, but are not limited to:

- i. Project elements such as residential densities, nonresidential densities and intensities or building sizes;
- ii. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions,

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- other financial contributions by the property owner, inspection fees, or dedications;
 - iii. Mitigation measures, development conditions, and other requirements under Chapter 43.21C RCW;
 - iv. Design standards such as maximum heights, setbacks, landscaping, and other development features;
 - v. Affordable housing;
 - vi. Parks and open space preservation;
 - vii. Phasing;
 - viii. Review procedures and standards for implementing decisions;
 - ix. A build-out or vesting period for applicable standards; and
 - x. Any other development requirement or procedure deemed appropriate by the City Council.

(b) In order to encourage innovative land use management and provide flexibility to achieve public benefits, a development agreement adopted pursuant to this chapter may impose development standards that differ from the following development regulations of the Port Orchard Municipal Code, provided that any development standards imposed by the development agreement shall be consistent with the comprehensive plan:

- i. Chapter 20.08 Vesting
- ii. Chapter 20.12: Definitions
- iii. Chapter 20.30: Introduction of Zoning, Land Uses, and Building Types
- iv. Chapter 20.32: Building Types
- v. Chapter 20.33: Greenbelt Districts
- vi. Chapter 20.34: Residential Districts
- vii. Chapter 20.35: Commercial and Mixed-Use Districts
- viii. Chapter 20.36 Industrial Districts
- ix. Chapter 20.37: Civic and Open Space Districts
- x. Chapter 20.38 Overlay Districts
- xi. Chapter 20.39: Use Provisions
- xii. Chapter 20.40: Site and Lot Dimensions
- xiii. Chapter 20.41: Site and Lot Development
- xiv. Chapter 20.54: Non-Conformities
- xv. Chapter 20.68: Accessory Dwelling Units
- xvi. Chapter 20.80 Subdivision – General Provisions
- xvii. Chapter 20. 82 Administration and Enforcement
- xviii. Chapter 20. 84 Boundary Line Adjustments
- xix. Chapter 20.86: Short Subdivisions
- xx. Chapter 20.88: Subdivisions – Preliminary Plats
- xxi. Chapter 20.90: Subdivisions – Final Plats
- xxii. Chapter 20.94: Binding Site Plans
- xxiii. Chapter 20.96: Vacation and Alteration of Final Plans and Short Plats
- xxiv. Chapter 20.98 Improvements
- xxv. Chapter 20.100 Development Standards – Subdivision Design

- xxvi. Chapter 20.120 Development Standards General Provisions
- xxvii. Chapter 20.122: Building Elements
- xxviii. Chapter 20.124: Development Standards – Parking and Circulation
- xxix. Chapter 20.127: Design Standards
- xxx. Chapter 20.128: Landscaping
- xxxi. Chapter 20.129: Significant Trees
- xxxii. Chapter 20.139: Residential Design Standards
- xxxiii. Chapter 20.162: Critical Areas Regulations
- xxxiv. 20.164 Shoreline Master Program
- xxxv. Chapter 20.182: Impact Fees

(c) A development agreement shall not modify any provision of the Port Orchard Municipal Code that is not identified in subsection (b) of this section.

(d) A development agreement may modify the provisions of the Port Orchard Municipal Code only if the City Council determines that the requested modifications are necessary to provide flexibility to achieve public benefits and provide superior outcomes than those that would result from strict compliance with the other applicable development standards.

(e) Any approved development standards that differ from those other applicable development standards shall not require any further zoning reclassification, variance from City standards or other City approval apart from development agreement approval.

(f) Subsequently adopted standards which differ from those in the development agreement shall apply to the subject site where necessary to address a serious threat to public health and safety or where the development agreement specifies a time period or phase after which certain identified standards may be modified. Building permit applications shall be subject to the building and construction codes in effect when the building permit application is deemed complete.

(2) Decision Type. Development agreements are a Type V action and shall be reviewed and approved pursuant to the procedures in Chapter 20.22 POMC and this chapter, except that if the development agreement is consolidated with a new or pending Type I, II, III or IV project permit application as defined in RCW 36.70B.020, the City Council's decision to approve, deny, or modify the development agreement may be appealed pursuant to chapter 36.70C RCW.

(3) Effect. Development agreements are not project permit applications and are not subject to the permit processing procedures in Chapter 36.70B RCW or Chapter 20.24 POMC. A development agreement shall constitute a binding contract between the city and the property owner and the subsequent owners of any later-acquired interests in the property identified in the development agreement. A development agreement governs the project identified in the development agreement during the term of the development agreement, or for all or that part of the build-out period specified in the development agreement, and may not be subject to an amendment to a zoning ordinance or development standard adopted after the effective date of the agreement, except as set forth in this chapter. A permit or approval issued/granted by the city after execution of a valid development agreement must be consistent with the development agreement.

(34) Limitations.

(a) A development agreement shall be limited to a 20-year term if any provision of the agreement requires the city to:

(i) Refrain from exercising any authority that it would have otherwise been able to exercise in the absence of the development agreement;

(ii) Defer application to the subject property of any newly adopted development regulations that would otherwise apply to the property identified in the agreement; or

(iii) Allow vesting beyond the applicable deadlines for a phased development.

(b) The development agreement shall also contain a proviso that the city may, without incurring any liability, engage in action that would otherwise be a breach if the city makes a determination on the record that the action is necessary to avoid a serious threat to public health and safety, or if the action is required by federal or state law.

(c) The full costs of drafting and processing the development agreement shall be reimbursed by the owner or applicant prior to final City Council action on the agreement to the extent such costs exceed the initial application fee.

(45) Developer's Compliance. The development agreement shall include a clause stating that the city's duties under the agreement are expressly conditioned upon the property owner's substantial compliance with each and every term, condition, provision and/or covenant in the development agreement, all applicable federal, state, and local laws and regulations and the property owner's obligations as identified in any approval or project permit for the property identified in the development agreement.

(56) No Third Party Rights. Except as otherwise provided in the development agreement, the development agreement shall create no rights enforceable by any party who/which is not a party to the development agreement.

(67) Liability. The development agreement shall include a clause providing that any breach of the development agreement by the city shall give right only to damages under state contract law and shall not give rise to any liability under Chapter 64.40 RCW, the Fifth and Fourteenth Amendments to the U.S. Constitution, or similar state constitutional provisions.

(78) Termination, ~~and~~ Modification and Extension. Every development agreement shall have an identified, specific termination date. Upon termination, any further development of the property shall conform to the development regulations applicable to the property at the time of permit

application. The city shall not modify any development agreement by extending the termination date unless the City Council makes legislative findings that the additional benefits to the City provided by the Developer in exchange for such extension of the development agreement outweigh the impacts from the development authorized by the extension. In no case shall an extension include the extension of provisions that are inconsistent with State or Federal law at the time of such extension. Any request for a modification shall be consistent with the city's development regulations applicable to the property at the time of the request, not the original execution date of the development agreement. Any extensions granted shall be for no more than a length of ten (10) years. No more than two (2) extensions of up to ten (10) years shall be granted. Extensions may not be granted unless an application for an extension is made no later than one hundred and eighty (180) days prior to the termination date in the development agreement or prior to the termination of any extension of a development agreement.

20.26.030 Application requirements.

Any owner of real property may, personally or through an agent, apply complete application for a development agreement shall consist of by filing with the department of community development the following:

- (1) Name, address, telephone number and email address (if any) of the property owner. If the applicant is not the property owner, the applicant must submit a verified statement from the property owner that the applicant has the property owner's permission to submit the application;
- (2) Address, parcel number and legal description of the property proposed to be subject to the development agreement;
- (3) Recent title report confirming that the property identified in the application is owned by the applicant/property owner;
- (4) Identification of any application (project permit application, comprehensive plan amendment application, development regulation amendment application) that is related to the proposed development agreement;
- (5) SEPA checklist, if applicable;
- (6) Two sets of stamped envelopes, and a list of the same, labeled with the name and address of all current owners of real property, as shown in the records of the county assessor for the subject property, within 300 feet of each boundary of the subject property;
- (7) A copy of the county assessor's map identifying the properties specified in the preceding subsection;

~~(86)~~ A completed application form and the application fee established by the city for this purpose; and

~~(97)~~ Any other information requested by the community development director relevant to the processing of the development agreement.

20.26.040 Phasing.

(1) In order to phase a project to extend the vested rights associated with an underlying project permit application, a development agreement is required. This ensures the availability of public facilities and services to all of the property in the identified individual phases, allows tracking of the available capacity of public facilities and utilities during each phase of construction, and with the extension of the vested rights associated with the project, provides certainty to the developer in the subsequent development approval process.

(2) The deadlines in the city's code relating to each type of project permit application must be consulted to establish the baseline vesting period. The city is not required to extend the vesting period. If the city decides to do so through a development agreement, it must be in exchange for the property owner's provision of corresponding benefits to the city in the form of, for example, contributions to public facilities and amenities over and above what would normally be required. In any event, the city shall not allow vesting to extend beyond the established 20-year period after approval of the project permit application unless the development agreement is extended in accordance with POMC 20.25.020(8).

(3) A development agreement for a phased development (such as a subdivision) shall include (in addition to all of the information in POMC 20.26.030), all of the following:

(a) Identification of the phasing schedule;

(b) Identification of the number of phases and all lots included in each phase;

(c) Identification of the approximate dates for construction of public streets, public utilities and other improvements in each phase;

(d) Identification of the approximate dates for commencement of development of each lot, lot sales and building occupancy;

(e) Identification of the benefits that the property owner will provide to the city in exchange for permission to phase the development according to the proposed schedule;

(f) Establishment of the deadline for the property owner to submit development applications, including building permit applications, for each phase;

(g) A description of the manner in which each phase is designed such that all site requirements are satisfied independently of phases yet to be given final approval and constructed;

(h) A description of the manner in which the property owner will ensure that adequate public facilities are available when the impact of development occurs. The property owner shall acknowledge in the development agreement that if the demand for public facilities or services needed to accommodate a subsequent development phase increases following the issuance of a development permit for a prior phase in the approval process, or if public facilities or services included in a concurrency or SEPA determination are not constructed as scheduled in the city's capital facilities plan, final development approval may have to be delayed for future phases pending the achievement of the adopted levels of service.

20.26.050 Processing procedures and appeals.

(1) Development agreements are not "project permit applications" as defined in RCW 36.70B.020(4). Therefore, there is no deadline for processing a development agreement.

(2) A development agreement ~~must~~ may be submitted for review in conjunction with ~~a~~ at least one land use and development permit for the underlying project. The development agreement application may be consolidated for processing with the underlying project permit application or other application for approval. Any development plan accompanying the development agreement shall be subject to the applicable project permit/approval application process set out in Title 20 of this code. The application shall not be deemed complete until a draft development agreement has been prepared and a development proposal conforming to the parameters of the development agreement and meeting all pertinent requirements has been submitted. If the development agreement is consolidated with a project permit application, the property owner must agree to waive the deadline in RCW 36.70B.080 and POMC 20.24.100 for issuance of a final decision on the underlying application, as well as the prohibition of no more than one open record hearing and one closed record hearing on the underlying project permit application in RCW 36.70B.060(3).

(~~3~~) Public Notice and Public Hearing.

(a) Notice of the public hearing shall be provided pursuant to POMC 20.22.070.

(b) If the owner of the real property which is the subject of the development agreement owns another parcel or parcels of real property which lie adjacent to the real property included in the development agreement, notice under this subsection shall be given to owners of real property located within 300 feet of any portion of the boundaries of such

adjacently located parcels of real property owned by the owner of the real property included in the development agreement.

(c) The hearing on the development agreement shall be held pursuant to POMC 20.22.070, except that when the Development Agreement is processed as a legislative matter (i.e. not consolidated with a project permit), the City Council shall conduct the hearing itself and forgo a hearing and recommendation by the Planning Commission. Any requests associated with the project-specific development proposal requiring a public hearing by the hearing examiner shall be heard by the hearing examiner prior to City Council action on the development agreement. While the director or hearing examiner may provide a recommendation on a development agreement (even if the director or hearing examiner makes the final decision on the underlying project permit application), the city council shall make the final decision whether to approve a development agreement by ordinance after the public hearing.

(d) Modifications to a development agreement shall be in writing, signed by the duly authorized representatives of the parties, be consistent with this chapter and, where considered substantive as determined by the director, follow the same procedures set forth in this chapter.

~~(34)~~ Appeal. A development agreement associated with an underlying project permit application may be appealed in the same manner and within the same deadline as the underlying project permit application. A development agreement associated with a legislative approval, such as a comprehensive plan amendment, may be appealed in the same manner and within the same deadline as the legislative approval. A modification of a development agreement pursuant to 20.26.020(8) that is consolidated with a new or pending Type I, II, III, or IV project permit application may be appealed pursuant to Chapter 36.70C RCW.

~~(45)~~ Recording Against the Property. The city shall record the development agreement against the property with the real property records of the Kitsap County auditor. During the term of the agreement, it is binding upon the owners of the property and any successors in interest to such property.

20.26.060 Discretionary legislative action.

The decision of the city council to approve or reject a request for a development agreement shall be a discretionary, legislative act and an exercise of the city's police power and contract authority.

20.26.070 Unauthorized fees prohibited.

Nothing in this Chapter is intended to authorize the City to impose impact fees, inspection fees, or dedications or to require any other financial contributions or mitigation measures except as expressly authorized by other applicable provisions of law.

SECTION 3. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical 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 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 5. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this __ day of _____ 2020.

Robert Putansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSORED BY:

Charlotte A. Archer, City Attorney

XXX, Councilmember



CITY OF PORT ORCHARD
DEPARTMENT OF COMMUNITY DEVELOPMENT

216 Prospect Street, Port Orchard, WA 98366
Ph.: (360) 874-5533 • FAX: (360) 876-4980

PLANNING COMMISSION STAFF REPORT

Agenda Item No: 4(b)	Meeting Date: 10/6/2020
Subject: POMC Title 20 "Housekeeping" Amendments	Prepared by: Nick Bond, Development Director

Issue: DCD staff continually tracks errors, inconsistencies, outdated references and omissions in Title 20 POMC (Unified Land Use and Development Code), and gathers these into one corrections ordinance each year – generally known as the annual Title 20 “housekeeping” ordinance. These proposed corrections to Title 20 for 2020 have been prepared for Planning Commission review. The ordinance is provided in clean format, and an explanatory document is provided that lists each correction in numerical order, in redline strikeout/underline format, with explanations at the head of each change.

The Planning Commission is requested to hold a public hearing, review the proposed corrections, and make a recommendation of approval to the City Council.

Recommendation: Approve the 2020 Title 20 housekeeping ordinance.

Suggested Motion: “I move to recommend that the City Council approve the 2020 Title 20 housekeeping ordinance.”

Attachments: Ordinance; Corrections by Code Section Explanatory Document

ORDINANCE NO. __ -20

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING MINOR REVISIONS AND CORRECTIONS TO TITLE 20 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on June 13, 2017, the Port Orchard City Council adopted ordinance 019-17 establishing a new unified development code (Title 20 POMC); and

WHEREAS, since the adoption of ordinance 019-17, on an annual basis the City has docketed, considered and adopted amendments to Title 20, to correct minor errors and internal conflicts and to clarify development regulations, pursuant to Chapter 20.06.020(7); and

WHEREAS, the City may adopt amendments to the City's development regulations pursuant to RCW 36.70A.106; and

WHEREAS, on September 21, 2020, the City submitted to the Department of Commerce a request for expedited review of the proposed minor revisions and corrections to Title 20, pursuant to RCW 36.70A.106(3)(b); and

WHEREAS, on September 25, 2020, the City's SEPA official issued a determination of non-significance for the proposed adoption of minor revisions and corrections to Title 20, and there have been no appeals; and

WHEREAS, on October 5, 2020, the City Council's Land Use committee reviewed the proposed minor revisions and corrections to Title 20, and directed staff to bring an ordinance to the full Council for review; and

WHEREAS, on October 6, 2020, the Planning Commission held a duly-noticed public hearing on the proposed adoption of minor revisions and corrections to Title 20, and ****public testimony was received****, and the Planning Commission recommended approval of the proposed adoption; and

WHEREAS, the City Council, after careful consideration of the recommendation from the Planning Commission, all public comment, and the Ordinance, finds that this Ordinance is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best

interests of the residents of the City and further advance the public health, safety and welfare; **NOW, THEREFORE,**

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

SECTION 1. The City Council adopts all of the “Whereas” sections of this ordinance as findings in support of this ordinance.

SECTION 2. Section 20.04.060 is revised to read as follows:

20.04.060 Agenda process.

(1) The director shall prepare and administer a preliminary comprehensive plan amendment agenda listing each application and containing written comments on proposed comprehensive plan amendments. Any interested party, including applicants, citizens, and government agencies, may submit items to the comprehensive plan amendment process agenda.

(2) All comprehensive plan amendment applications must be completed and submitted to the planning department by 4:00 p.m. on January 31st of any year in order to be considered during that year’s amendment process. Completed applications that are received after the submission date will be placed on the comprehensive plan amendment agenda for the following calendar year. Applications that are incomplete will be returned to the applicant.

(3) By February 28th of each year, the director shall compile and maintain for public review a recommended final comprehensive plan amendment agenda for site-specific amendments and for city-wide amendments, including any proposed development regulations necessary to implement such amendments. The director shall base these docket recommendations on a preliminary evaluation of the need, urgency, and appropriateness of the suggested comprehensive plan amendment as well as the planning department staff and budget availability to accommodate the public review process.

(4) The director shall provide notice of the recommended final comprehensive plan amendment agenda as provided in POMC 20.04.080.

(5) The director shall provide the recommended final comprehensive plan amendment process agenda of project-specific amendments and city-wide comprehensive plan amendments, along with a brief description of each suggested plan amendment to the city council for review and consideration. The city council, after considering the development director’s recommended final

comprehensive plan amendment agenda, shall adopt the final comprehensive plan amendment agenda for the current year plan amendment cycle no later than April 30th of each year.

SECTION 3. Table 20.22.020 is revised to read as follows:

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Building Permit ¹ (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 POMC 20.150.100) Boundary Line Adjustment (Chapter 20.84 POMC) Code Interpretation (Chapter 20.10 POMC) Legal Nonconforming Permit	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 20.150 POMC) Sign Permit (if SEPA required) (Chapter 20.132 POMC) Shoreline Substantial Development	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 Nonadministrative Variance (Chapter 20.164 POMC) Planned Residential Developments Final Plat – Alteration or Vacation (Chapter 20.96 POMC)	Final Plat (Chapter 20.90 POMC) Site-Specific Rezone without Comprehensive Plan Amendment (Chapter 20.42 POMC)	Development Agreement (Chapter 20.26 POMC) Comprehensive Plan Amendment – Land Use Map Amendment, Text Amendment (Chapter 20.04 POMC) Legislative Zoning Map Amendment (Chapter 20.06 POMC) POMC Title 20 Code Amendment (Chapter 20.06 POMC) Annex

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
(Chapter 20.54 POMC) Short Plat, Final (Chapter 20.86 POMC) Sign Permit (if SEPA not required) (Chapter 20.132 POMC) Master Sign Plan	Permit, Administrative (Chapter 20.164 POMC)	View Protection Overlay District (VPOD) Variance (POMC 20.38.860)		
Shoreline Permit Exemption (Chapter 20.164 POMC) Temporary Use Permit, Extension (Chapter 20.58 POMC)	Sign Variance (Chapter 20.132 POMC) Major Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.100) Variance – Administrative (Chapter 20.28 POMC)			

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.127.030), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180 POMC), 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).

¹ 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 4. Section 20.24.110 is revised to read as follows:

20.24.110 Notice of decision.

(1) Contents. The notice of decision issued by the director for Type I and II actions, and the findings of fact and conclusions of law issued by the hearing body on Type III and IV actions shall include the following, as a minimum:

- (a) A list of all project permits included in the decision, including all permits being reviewed through the consolidated review process;
- (b) Date and description of the decision;
- (c) Statement of any threshold determination made under SEPA (Chapter 43.21C RCW);
- (d) Procedures for an administrative appeal, if any;
- (e) Statement that the affected property owners may request a change in property tax valuation notwithstanding any program of revaluation by contacting the Kitsap County assessor;
- (f) Duration of the permit approval and a statement summarizing the permit expiration and extension procedures (if any); and
- (g) Statement that the complete project permit file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall list the place that the file is available and the name and telephone number of the city representative to contact about reviewing the file.

(2) Persons Entitled to Receive Notice of Decision. A notice of decision, or the written findings of fact and conclusions, shall be provided to the applicant, to any person who submitted written comments on the application (other than a signed petition), to any person who testified at the hearing or any person who requested in writing a copy of the decision, and to the Kitsap County assessor.

(3) For project permit applications, the city shall issue a notice of decision within 120 days of the issuance of the determination of technical completeness on the application, unless the applicant has agreed to a different deadline.

(4) In calculating the time periods for issuance of the notice of decision, the following periods shall be excluded:

(a) Any period during which the applicant has been requested by the director to correct plans, perform required studies, or provide additional required information. The period shall begin from the date the director notifies the applicant of the need for additional information, until the date the director determines that the additional information satisfies the request for information, or 14 calendar days after the date the additional information is provided to the city, whichever is earlier;

(b) If the director determines that the information submitted is insufficient, the applicant shall be informed of the particular insufficiencies and the procedures set forth in POMC 20.24.060 for calculating the exclusion period shall apply;

(c) Any period during which an environmental impact statement (EIS) is being prepared pursuant to Chapter 43.21C RCW and Chapter 20.160 POMC;

(d) Any period for consideration and issuance of a decision for administrative appeals of project permits;

(e) Any extension of time mutually agreed to in writing by the director and the applicant.

(5) The time limits established in this section do not apply to applications that:

(a) Are not project permit applications (such as amendments to the comprehensive plan or a development regulation);

(b) Requires siting approval of an essential public facility;

(c) Are substantially revised by the applicant, in which case the time period shall start from the date that a determination of completeness for the revised application is issued by the director.

SECTION 5. Section 20.25.050 is revised to read as follows:

20.25.050 Notice of public hearing.

(1) Mailed Notice of Public Hearing. The city shall use the records of the Kitsap County assessor's office as the official records for determining ownership of property. The director shall mail notice of the public hearing as follows:

(a) At least 14 calendar days before the hearing date, notice shall be mailed to:

(i) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;

(ii) All property owners of record within 300 feet of the site;

(iii) Affected governmental agencies as determined by the city;

(iv) Any neighborhood or community organization whose boundaries include the property proposed for development, and which has requested notice;

(v) Any person who submitted written comments on the application (other than a signed petition);

(vi) Any person who submits a written request to receive notice; and

(vii) For appeals, the appellant and all persons who provided testimony in the original decision.

(2) Affidavit of Mailed Notice of Public Hearing. The director shall have an affidavit of mailed notice of public hearing prepared and made a part of the administrative record. The affidavit shall be a sworn statement stating the date that the notice of public hearing was mailed to the persons who must receive notice, as identified herein.

(3) Published Notice of Public Hearing. At least 10 calendar days before the hearing, notice of the hearing shall be printed in the city's official newspaper (a newspaper in general circulation in the city). The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

(4) Content of Notice of Public Hearing. The notice of public hearing shall contain:

(a) The name and address of the applicant and the applicant's representative;

(b) A description of the subject property reasonably sufficient to inform the public of its location, including, but not limited to, a vicinity location or written description, a map or postal address, and a subdivision lot and block designation, but need not include a legal description. A legal description alone does not meet this requirement;

(c) The date, time, and place of the public hearing;

(d) The nature of the application and the proposed land use or uses that could be authorized for the property;

(e) A statement that all interested persons may appear and provide testimony;

(f) The sections of the code that are pertinent to the hearing procedure, including, but not limited to, the codes describing the applicable criteria and development standards that apply to the application;

(g) The threshold determination made under SEPA (WAC 197-11-330), if any;

(h) A statement describing when the information in the administrative record may be examined by the public and when and how written comments addressing findings required for a decision by the decision-maker(s) may be admitted;

(i) The name of a city representative to contact and the telephone number where additional information may be obtained;

(j) A statement explaining that a copy of the application, all documents relied upon by the applicant, and a list of the applicable criteria for the application are available for inspection by the public at no cost and that copies will be provided at the requestor's cost; and

(k) A statement explaining that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and that copies will be provided at the requestor's cost.

(5) Final notice of decision for project permits not requiring a public hearing shall be mailed to the applicant in accordance with POMC 20.24.100.

SECTION 6. Chapter 20.37 is revised to read as follows:

Chapter 20.37
Public and Community Space Districts

Sections:

- 20.37.010 Civic and institutional (CI).
- 20.37.020 Parks and recreation (PR).
- 20.37.030 Public facilities (PF).

20.37.010 Civic and institutional (CI).

(1) Intent. The civic and institutional district is intended to protect civic uses that serve the surrounding neighborhoods or produce intense civic activities that do not readily assimilate into other zoning districts. Activities may include, but are not limited to, religious facilities, fraternal organizations, and schools. The civic and institutional district intends to provide for compliance with the Religious Land Use and Institutionalized Persons Act (RLUIPA). The civic and institutional district may be applied in any area of the city regardless of comprehensive plan designation.

(2) Building Types Allowed. Building types are not applicable in the civic and institutional district.



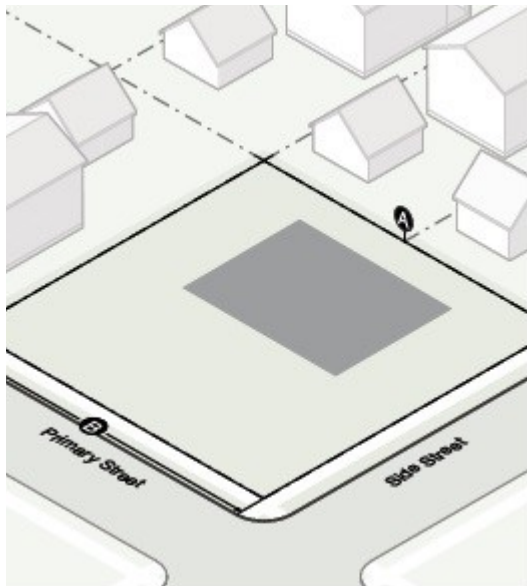
Civic and Institutional Buildings

(3) Lot Dimensions.

(a) Minimum lot size: 7,000 square feet.

(b) Minimum lot width: 70 feet.

(4) Maximum hard surface coverage is 70 percent.



Civic and Institutional Lot Dimensions

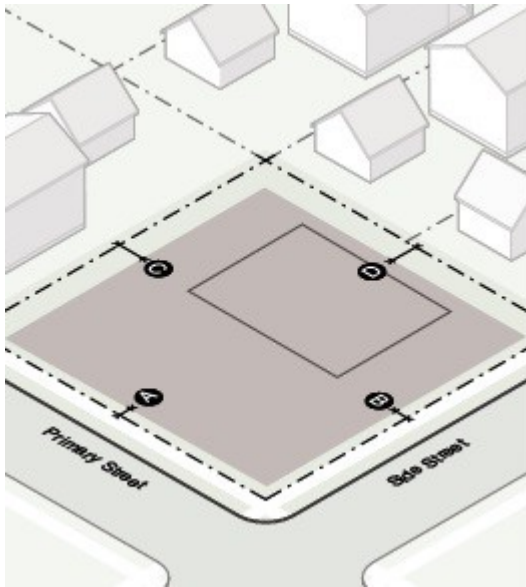
(5) Principal Building Setbacks.

(a) Primary street: 15 feet minimum (may be reduced on designated storefront and mixed designation streets, see Chapter 20.127 POMC).

(b) Side street: 10 feet minimum (may be reduced on designated storefront and mixed designation streets, see Chapter 20.127 POMC).

(c) Side interior: 10 feet minimum.

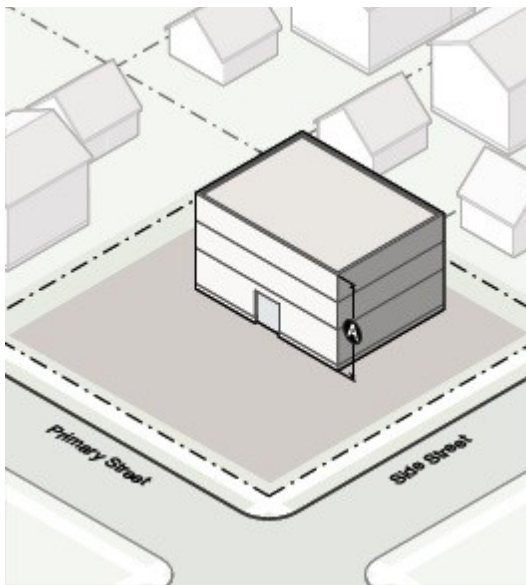
(d) Rear: 10 feet minimum.



Civic and Institutional Building Placement

(6) Building Height.

- (a) All buildings and structures: three stories/55 feet maximum.



Civic and Institutional Building Height

20.37.020 Parks and recreation (PR).

(1) Intent. The parks and recreation district is intended to create, preserve and enhance park land to meet the active and recreational needs of residents. The parks and recreation district is intended to provide for both improved and unimproved park land. Activities may include, but are not limited to, structures or other active, player-oriented facilities such as playgrounds, recreational fields, ballfields, sport courts, dog parks, and associated accessory facilities such as parking areas and restrooms. The parks and recreation district is also intended to accommodate buildings of a public nature such as community and recreation centers. The parks and recreation district may be applied in any area of the city regardless of comprehensive plan designation.

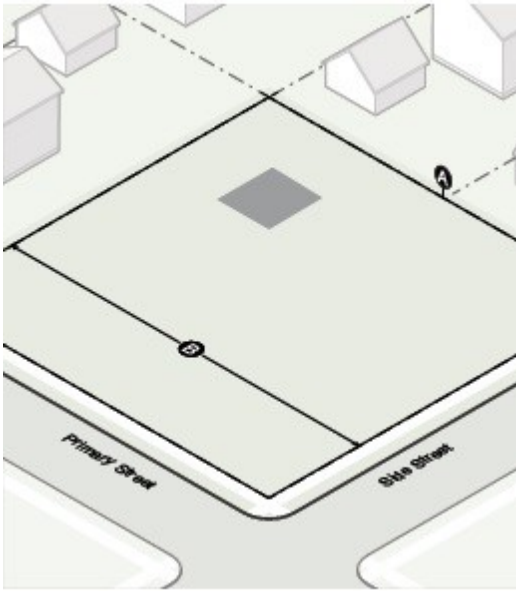
(2) Building Types Allowed. Building types are not applicable in the parks and recreation district.



Parks and Recreation Buildings

(3) Lot Dimensions.

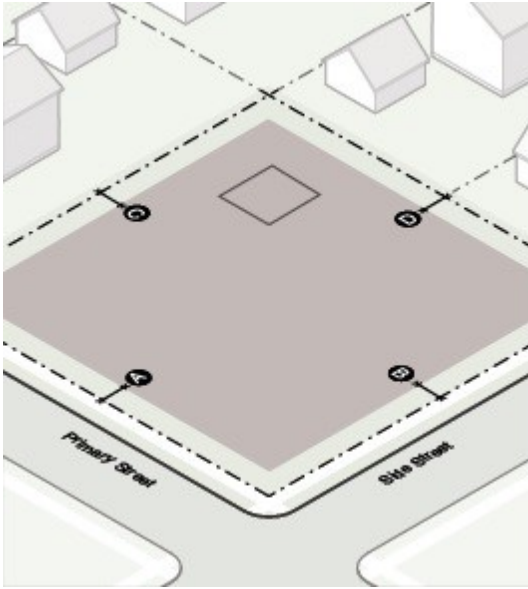
- (a) There shall be no minimum lot size within the parks and recreation district.
- (b) There shall be no minimum lot width within the parks and recreation district.



Parks and Recreation Lot Dimensions

(4) Building Setbacks.

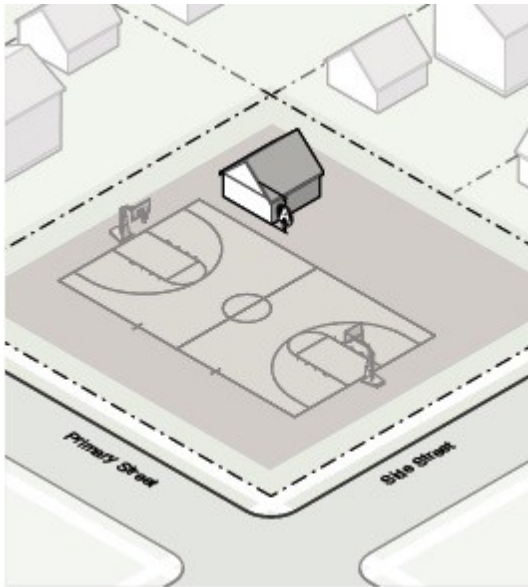
- (a) Primary street: 10 feet minimum.
- (b) Side street: 10 feet minimum.
- (c) Side interior: 10 feet minimum.
- (d) Rear: 10 feet minimum.



Parks and Recreation Building Placement

(5) Building Height.

(a) All buildings and structures: 35 feet maximum.



Parks and Recreation Building Height

20.37.030 Public facilities (PF).

(1) Intent. The public facilities district is intended to provide for public facility uses that serve the city and which may not readily assimilate into other zoning districts. The public facilities district may be applied in any area of the city regardless of comprehensive plan designation. The public facilities district intends to accommodate buildings of a public nature such as police, fire or EMS stations and government offices.

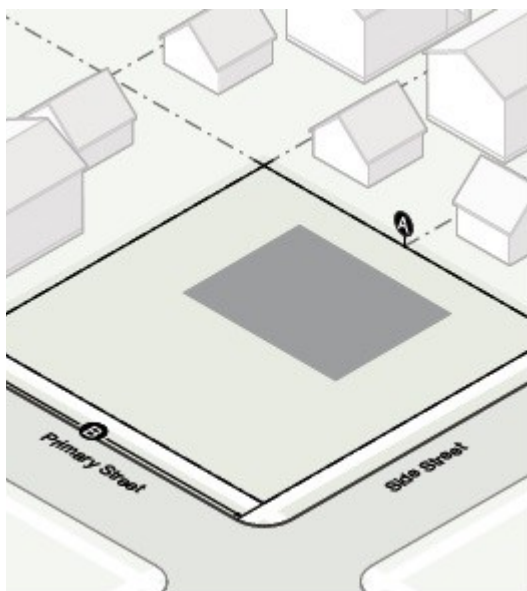
(2) Building Types Allowed. Building types are not applicable in the public facilities district.

(3) Lot Dimensions.

(a) Minimum lot size: 7,000 square feet.

(b) Minimum lot width: 70 feet.

(4) Maximum hard surface coverage is 95 percent.



Civic and Institutional Lot Dimensions

(5) Principal Building Setbacks (from Ground Level up to 40 Feet).

(a) Primary street: 10 feet minimum (may be reduced on designated storefront and mixed designation streets, see Chapter 20.127 POMC).

(b) Side street: 10 feet minimum (may be reduced on designated storefront and mixed designation streets, see Chapter 20.127 POMC).

(c) Side Interior.

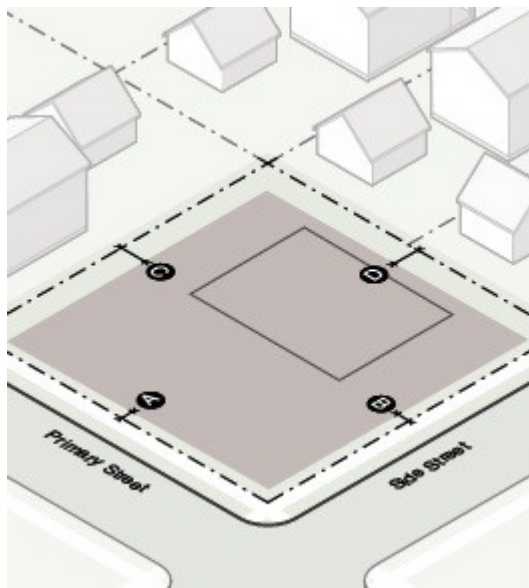
(i) Side interior abutting nonresidential: five feet minimum.

(ii) Side interior abutting residential: 20 feet minimum.

(d) Rear.

(i) Abutting nonresidential: five feet minimum.

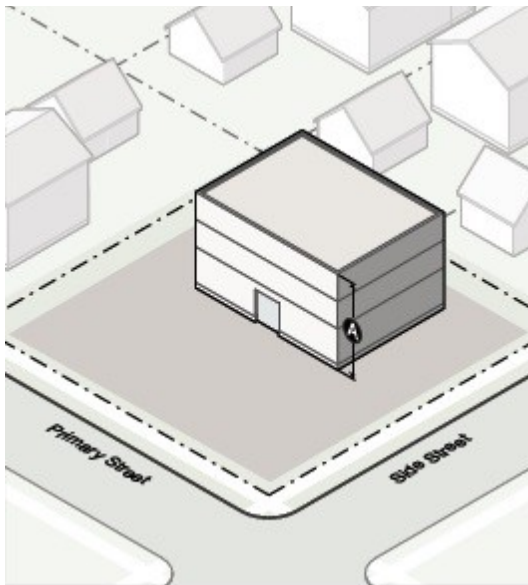
(ii) Rear abutting residential: 20 feet minimum.



Civic and Institutional Building Placement

(6) Building Height.

(a) All buildings and structures: five stories/85 feet maximum (it is recognized that public buildings may have higher per story heights than other building types hence the 85-foot height limit).



Civic and Institutional Building Height

SECTION 7. Section 20.39.380 is revised to read as follows:

20.39.380 Business services.

(1) Defined. A facility providing professional office and commercial retail businesses with services including maintenance, repair and service, testing, and rental, such as business equipment repair services, document storage, document destruction, and soils and materials testing laboratories. This use excludes maintenance, repair, and service uses that are industrial in nature or that include outdoor storage of equipment or supplies. Examples include but are not limited to: Uses that include maintenance, repair and service such as copiers or computers are allowed. Uses that include maintenance, repair and service related to plumbing, landscaping, commercial kitchens or other industrial type uses are not allowed.

SECTION 8. Section 20.54.090 is revised to read as follows:

POMC 20.54.090 Administration of nonconforming permits.

- (1) The following steps shall be followed in the processing of nonconforming permits:
- (a) Determination of complete application (POMC 20.24.060);
 - (b) Determination of consistency (POMC 20.24.100); and
 - (c) Notice of decision by director (POMC 20.24.110).

SECTION 9. Section 20.100.060 is revised to read as follows:

20.100.060 Street length.

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) Where significant topographic features, or critical areas features, are present and will be retained on parcels of one-half acre or larger in size that are proposed for development, if one of the three options provided below are implemented within each block that exceeds 800 feet in face length or 2,400 feet in perimeter length, the street length standards in this section shall be considered met:

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

(3) Maximum Length of a Cul-De-Sac Street.

- (a) No cul-de-sac served by one access point in any single-family, multiple-family, industrial, or commercial subdivision shall exceed 450 feet in length or the length as shown in Table 20.100.070(1), whichever is less.

(b) No cul-de-sac in any single-family subdivision district shall be designed to serve more than 25 single-family dwelling units, unless an exception is granted by the hearing examiner to the maximum length, in which case the maximum number of dwelling units shall be increased in the same percentage as the maximum length has been increased.

(c) For purposes of this subsection, cul-de-sac length shall be measured along the centerline of the cul-de-sac from a point beginning at the intersection of the cul-de-sac street with the centerline of the street from which it extends to the center of the turnaround at the end of such cul-de-sac. (Also see POMC 20.100.070 for cul-de-sac requirements.) For the purposes of measurement, either a full four-way intersection or a "T" three-way intersection shall be considered an intersection.

(d) An exception to the maximum cul-de-sac lengths may be granted by the decision-making authority to develop a parcel:

(i) With significant topographic constraints such as those documented in a geological report or where the resulting roadway would exceed a 12 percent grade;

(ii) With critical areas requiring protection on or adjacent to the parcel;

(iii) That is effectively landlocked with no other alternative than a cul-de-sac exceeding 450 feet;

(iv) Is in a proposed subdivision that has such a unique configuration that the only way to serve the area in question is with a cul-de-sac exceeding 450 feet. Such exception shall not be granted if the length of the cul-de-sac can be reduced by connection to an adjacent and/or parallel street. The desire to gain additional lots from the cul-de-sac exception by itself is not reason enough to grant such exception to the maximum length;

(v) Additional modifications may be required by the decision-making authority upon recommendation by the fire authority including intermediate turnarounds (eyebrows) to accommodate emergency vehicles being provided at a maximum distance of 300 feet;

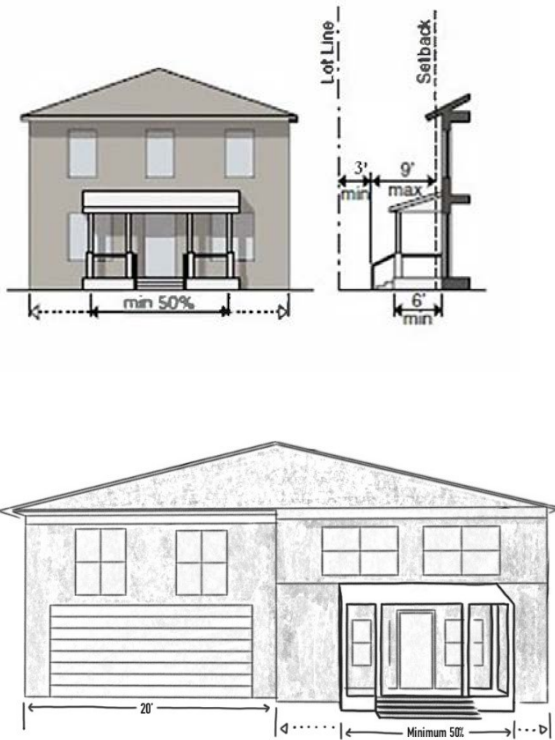
(vi) Building construction within the area of the cul-de-sac beyond the 450 feet distance shall be fire sprinklered and a note shall be added to the recording plat and the subdivision improvement plans indicating that buildings are required to be sprinklered within the subdivision, and which lot numbers have such requirement.

(4) Cross-Reference. Also see POMC 20.100.070 for cul-de-sac requirements.

SECTION 10. Section 20.122.060 is revised to read as follows:

20.122.060 Porch.

A raised structure attached to a building, forming a covered entrance to a doorway.



The 50 percent porch width shall be measured to include the habitable ground floor portion of the detached house only.



The 50 percent porch width shall be measured to include the habitable ground floor portion of the detached house only.

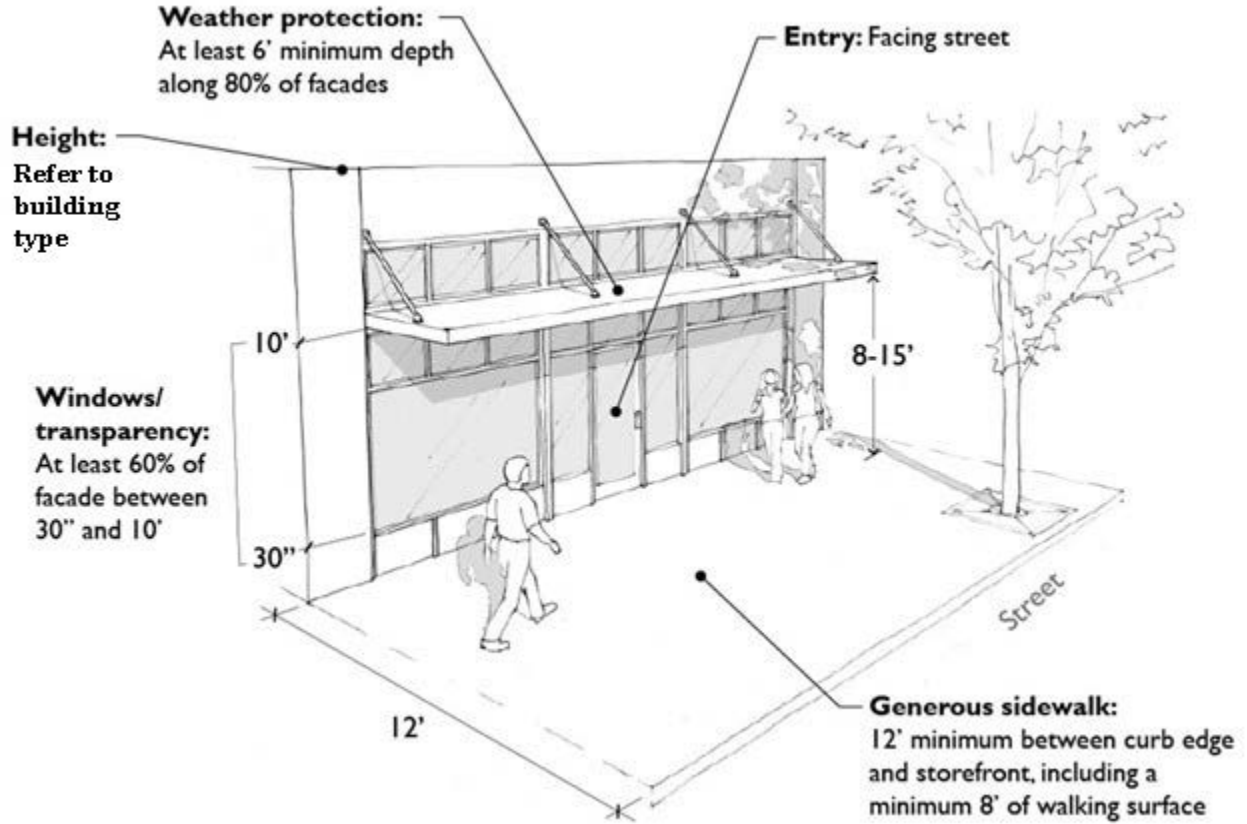
- (1) A front porch must be at least six feet deep (not including the steps). A portion of the porch may be less than six feet deep; provided, that the front door is recessed by at least six feet.
- (2) A front porch must be contiguous, with a width not less than 50 percent of the building facade from which it projects. For the purposes of this section, the front building facade shall not include that portion of the house containing an attached side-by-side garage.
- (3) A front porch must be roofed and may be screened, but cannot be fully enclosed.
- (4) A front porch may extend up to nine feet, including the steps, into a required front setback; provided, that such extension is at least three feet from the vertical plane of any lot line.
- (5) A front porch may not encroach into the public right-of-way.

SECTION 11. Section 20.127.150 is revised to read as follows:

20.127.150 Storefront block frontage standards.

- (1) Description/Purpose. Storefront block frontages are the most vibrant and active shopping and dining areas within the city and serve the purpose of attracting pedestrians to enliven the streetscape. Blocks designated as storefront blocks include continuous storefronts placed along the sidewalk edge with small scale shops and/or frequent business entries.

Figure 20.127.150(1)



(2) Standards. All development as set forth in POMC 20.127.130 on sites containing a storefront block frontage designation must comply with the following standards (on applicable block frontages):

Table 20.127.150(2)
Storefront Block Frontage Standards

Element	Standards	Examples and Notes
Ground floor		
Land use	Nonresidential uses, except for lobbies associated with residential or hotel/motel uses on upper floors.	

Table 20.127.150(2)
Storefront Block Frontage Standards


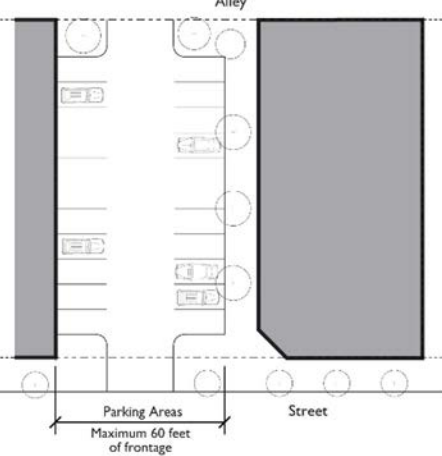
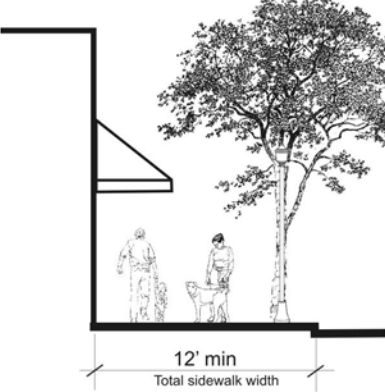
Element	Standards	Examples and Notes
Floor to ceiling height	Refer to building type (applies to new buildings only).	
Retail space depth	20 feet minimum (applies to new buildings only). ⇐	
Building placement	Required at front property line/back edge of sidewalk. Additional setbacks are allowed for widened sidewalks, pedestrian-oriented space (POMC 20.127.350(4)), or where additional future right-of-way acquisition is planned by the city.	
Building entrances	Must face the street. For corner buildings, entrances may face the street corner.	
Facade transparency	60 percent minimum. ⇐	Also see POMC 20.127.140 for additional clarification on transparency standards.
Weather protection	Weather protection with 8 to 15 feet vertical clearance at least 6 feet in minimum depth along at least 80 percent of facade. ⇐ Retractable awnings may be used to meet these requirements. Weather protection must not obstruct utility poles or street trees.	For downtown properties on Bay Street and adjacent to the city-owned marquee, new development may utilize the existing marquee (subject to approval by the public works director) or new independent weather protection to meet this provision.

Table 20.127.150(2)
Storefront Block Frontage Standards

Element	Standards	Examples and Notes
	<p>Weather protection shall comply with WSDOT standards for setback from the face of the curb and may have the effect of reducing the minimum weather protection depth.</p>	
<p>Parking location Also see Chapter 20.124 POMC for related parking requirements</p>	<p>New surface or ground level parking areas must be placed to the side or rear of structures and are limited to 60 feet of street frontage. ⇐ Provide a 6-foot minimum buffer of landscaping between the street and off-street parking areas meeting the standards of Chapter 20.128 POMC. ⇐</p>	 <p>The diagram illustrates a building with an alley to its rear. To the left of the building, there are several parking spaces. A dimension line below the parking areas indicates a 'Maximum 60 feet of frontage'. A 6-foot buffer zone is shown between the street and the parking areas. The street is labeled 'Street' and the alley is labeled 'Alley'.</p>
<p>Sidewalk width</p>	<p>12 feet minimum between curb edge and storefront, including a minimum walking surface width of 8 feet and a clear/buffer zone with street trees. ⇐</p>	 <p>The diagram shows a cross-section of a sidewalk. A tree is planted on the sidewalk. A person is walking on the sidewalk. A dimension line below the sidewalk indicates a '12' min Total sidewalk width'.</p>

(3) Departure Criteria. Departures from the above standards that feature the ⇐ symbol will be considered by the reviewing authority (the director or hearing examiner, as appropriate),

provided the alternative proposal meets the purpose of the standards, plus the following criteria:

(a) Retail Space Depth. Reduced depths will be considered where the applicant can successfully demonstrate the proposed alternative design and configuration of the space is viable for a variety of permitted retail uses;

(b) Facade Transparency. The proposed alternative design treatment of facade area between ground level windows provides visual interest to the pedestrian and mitigates impacts of any blank wall areas. No less than 40 percent of the facade between 30 inches and 10 feet above the sidewalk may be approved with a departure;

(c) Weather Protection. Other proposed alternative design treatments must provide equivalent weather protection benefits;

(d) Parking Location. There must be an acceptable tradeoff in terms of the amount and quality of storefront area that is integrated with the development and the applicable parking location departure. Plus, the alternative must include design features to successfully mitigate the visual impact of additional parking areas along designated storefront streets; and

(e) Sidewalk Width. Alternative designs may be considered where topographical challenges exist. Alternative designs must be able to accommodate safe and comfortable pedestrian traffic anticipated for full block development.

SECTION 12: Section 20.127.340 is revised to read as follows:

20.127.340 Vehicular circulation and parking.

The standards herein supplement the provisions of public works standards and Chapter 20.124 POMC. Where there is a conflict, the provisions herein apply, except that the public works director may override this requirement and apply the public works standard for a driveway if the public works director finds that a failure to apply the public works standards will result in a threat to public safety.

(1) Purpose.

(a) To create a safe, convenient, and efficient network for vehicle circulation and parking.

(b) To enhance the visual character of interior access roads.

(c) To minimize conflicts with pedestrian circulation and activity.

(2) Driveway Provisions.

(a) Driveways must comply with the public works standards. Where there is a conflict between the driveway provisions in this chapter and those in the public works standards, the driveway provisions in this chapter apply, except that the public works director may override this requirement and apply the public works standard for a driveway if the public works director finds that a failure to apply the public works standards will result in a threat to public safety.

(b) Drive aisles must meet the standards set forth in POMC 20.124.100, Off-street parking design standards.

(c) Minimize parking lot entrances, drive aisles, and other vehicle access routes onto private property from a public right-of-way through the following means:

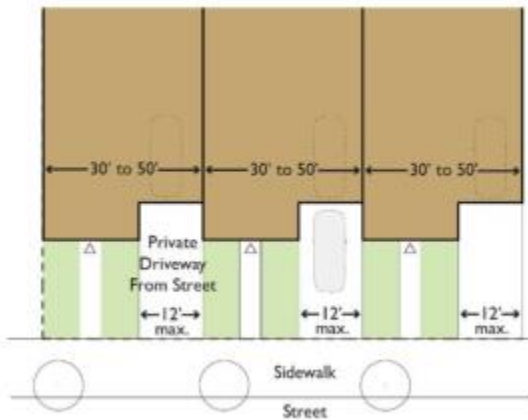
(i) Driveway lanes crossing a public sidewalk must be no wider than the minimum required per entry or exit lane. The city may impose additional restrictions to parking lot and vehicle access points to reduce impacts to public safety, pedestrian movement, on-street vehicle circulation, and visual qualities.

(ii) Minimize the number of driveway entrances and comply with the public works standards for driveway entrances.

(iii) The reviewing authority may require joint drive aisles serving adjacent developments when joint access is physically and legally available.

(iv) Minimize conflicts between entries and vehicle parking and maneuvering areas.

(v) At street corner sites, drive aisles must be located on the lowest classified roadway and as close as practical to the property line most distant from the intersection, unless the reviewing authority finds there is a compelling reason to the contrary.



The left image shows an acceptable front-loaded townhouse example in plan view, where individual units are at least 30 feet wide. The below example does not meet that requirement.



(d) Port Orchard Boulevard Access. Access from Port Orchard Boulevard except for areas with a designated block frontage as shown in the community design framework maps in POMC 20.127.130 shall be prohibited.

(3) Intersite Connectivity. The provision of through vehicle access connections between commercially or nonresidentially zoned properties is required except where the reviewing authority determines it is infeasible or undesirable (e.g., where it is determined that such a vehicle connection would impact safe pedestrian movement). See Article II of this chapter for specific block frontage standards. Vehicle access may be in the form of a dedicated or private alley, connected or shared parking lots, shared drive aisles, or similar features.

(4) Internal Roadway Design.

(a) To increase the function and appearance of internal roadways on large sites (greater than two acres), street trees and sidewalks must be provided on all internal access roadways, excepting access roads designed solely for the purpose of service (e.g., waste pick-up) and loading.

(b) In some instances where traffic speed and volume are low, the reviewing authority may approve a street where vehicle, bicycle and pedestrian movement are mixed such as in a “woonerf” or “shared street.” Woonerf streets must feature traffic calming and safety measures as well as landscape and amenity features as determined by the reviewing authority.

Figure 20.127.340(4)
Good Internal Roadway Examples



The examples above include angled parking and planter strips with street trees. Pedestrian-scaled lighting also contributes to the character in the upper right image.



The above left image illustrates a thoroughfare lane with a row of street trees. A sidewalk is included on one side of the street to provide a strategic connection between businesses. The right image illustrates the curbless “woonerf” design where travel speeds are low and lanes are shared between pedestrians and vehicles.

(c) Drive-Through Facilities. Where allowed, drive-through facilities (e.g., drive-up windows) must comply with the following:

(i) Drive-through lanes, including waiting and holding lanes, must be buffered from the street and internal walkways by one or both of the following:

(A) A planting strip at least five feet wide with continuous plantings of evergreen shrubs and/or trees that will, at maturity, provide a continuous evergreen screen at least four feet tall.

(B) A wall at least three feet high constructed of brick, stone or siding materials that matches the principal walls of the building.

Departure: Alternative screening schemes may be approved provided they include both the wall and a substantial vegetative screen. The landscaping must comply with Chapter 20.128 POMC.

(ii) Drive-through lanes must not restrict pedestrian access between a public sidewalk and on-site buildings. Walkways must not be located within required stacking space as set forth in the public works standards.

(iii) This section contains standards for drive-through lanes and facilities. Signs associated with drive-through lanes are regulated under POMC 20.132.150(7).

SECTION 13: Section 20.160.190 is revised to read as follows:

20.160.190 Public notice.

(1) Whenever the city issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the city shall give public notice as follows:

(a) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due;

(b) If no public notice is required for the permit or approval, the city shall give notice of the DNS or DS in accordance with the requirements of Chapter 20.25 POMC, except that for non-project actions as defined in WAC 197-11-774, the city shall give notice of the DNS or DS in accordance with the requirements of WAC 197-11-510(1)(b) and (g).

(2) When the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

(3) Whenever the city issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(a) Indicating the availability of the DEIS in any public notice required for a nonexempt license; and in accordance with the requirements of Chapter 20.25 POMC.

(4) Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal.

(5) The city may require an applicant to complete the public notice requirements for the applicant's proposal at his/her expense.

SECTION 14: Section 20.162.072 is revised to read as follows:

20.162.072 Development standards.

Those regulated uses identified below within designated fish and wildlife habitat conservation areas shall comply with the performance standards outlined in this section. Potential impacts to fish and wildlife habitat conservation areas or their buffers shall be appropriately identified and mitigated consistent with Article XII of this chapter.

(1) **Buffers and Building Setbacks.** Buffers or setbacks shall be maintained along the perimeter of fish and wildlife habitat conservation areas, as listed in Table 5. Distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. It is acceptable, however, to enhance the buffer by planting indigenous vegetation, as approved by the department. Alteration of buffer areas may be allowed for water-dependent and water-related activities subject to the city's shoreline master program (Chapter 20.164 POMC), and for development authorized by POMC 20.162.034, Exceptions, POMC 20.162.032, Exemptions, POMC 20.162.038, Nonconforming – Existing structures, or POMC 20.162.036, Variances. The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined so as to include the entire stream feature. Refuse shall not be placed in buffers.

Table 5

CATEGORY	BUFFER WIDTH STANDARD	MINIMUM BUILDING SETBACK	OTHER DEVELOPMENT STANDARDS
Streams			
Water Type			For minor new development the department may reduce the buffer width by up to 25 percent through an administrative buffer reduction process when review with the Washington State Department of Fish and Wildlife determines that conditions are sufficient to protect the affected habitat. The buffer shall not be less than 25 feet. Where applicable, refer to the development standards in this chapter. Where such features occur on a site, the more restrictive buffer or building setback will apply.
F	150 feet	15 feet beyond buffer	
Np	50 feet	15 feet beyond buffer	
Ns	50 feet	15 feet beyond buffer	
Lakes – Less Than 20 Acres (Non-Type 1 Waters of the State)			
Zoning Designation			Where applicable, refer to the development standards in this chapter. Where such features occur on a site, the more restrictive buffer or building setback will apply.
Community Facilities	None	50 feet	
Commercial, Mixed Use	None	50 feet	
Employment	None	50 feet	
Greenbelt, Residential	None	35 feet	
Wildlife Habitat Conservation Areas			
Class I	Buffer widths and setbacks will be determined through mandatory habitat plan.		
Class II	Site-specific conditions will determine the need for the preparation of a habitat plan for buffer widths and setbacks.		

SECTION 15. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 16. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical 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 17. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 17th day of October 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED:

EFFECTIVE DATE:

TITLE 20 POMC
PROPOSED “HOUSEKEEPING” CORRECTIONS – 2020
 SHOWN AS **RED STRIKEOUT/UNDERLINE**, PER SECTION EXCERPT
 Explanations for changes are listed in *italic blue* before each change
 Planning Commission Meeting: October 6, 2020

1. This code section indicated that Comprehensive Plan amendment applications could be submitted until 5:00 pm on January 31; however, City offices close at 4:30 pm. This section has been changed to 4:00 pm to allow sufficient time for submittal review, payment and receipt prior to 4:30 pm.

20.04.060 Agenda process.

(2) All comprehensive plan amendment applications must be completed and submitted to the planning department by ~~5:00~~ 4:00 p.m. on January 31st of any year in order to be considered during that year’s amendment process. Completed applications that are received after the submission date will be placed on the comprehensive plan amendment agenda for the following calendar year. Applications that are incomplete will be returned to the applicant.

2. Sign variance permits were incorrectly classified as a Type I permit instead of Type II. Master Sign Plan was left out of the Type I permits. The sign code no longer has a Comprehensive Sign Design Plan permit.

Table 20.22.020 – Permit Review Type Classifications

Type I	Type II	Type III	Type IV	Type V
Director Decision	Director Decision	HE Decision	City Council Decision	City Council Decision
Judicial Appeal	HE Appeal	Judicial Appeal	Judicial Appeal	Decision GMHB Appeal
Sign Variance (Chapter 20.132 POMC) <u>Master Sign Plan</u>	<u>Sign Variance (Chapter 20.132 POMC)</u>	Comprehensive Sign Design Plan Permit		

3. Clarifies in Section 20.24.110(2) who is entitled to receive a Notice of Decision on a project application. Requests must be submitted in writing.

20.24.110 Notice of decision.

(2) Persons Entitled to Receive Notice of Decision. A notice of decision, or the written findings of fact and conclusions, shall be provided to the applicant, to any person who submitted written comments on the application (other than a signed petition), to any person who testified at the hearing or any person who requested in writing a copy of the decision, and to the Kitsap County assessor.

4. Clarifies in Section 20.25.050(1)(a) who is entitled to receive a Notice of Hearing for a project application, to be consistent with code requirements in 20.24.110(2) for receiving the Notice of Decision – see #4 above.

20.25.050 Notice of public hearing.

(1) Mailed Notice of Public Hearing. The city shall use the records of the Kitsap County assessor’s office as the official records for determining ownership of property. The director shall mail notice of the public hearing as follows:

(a) At least 14 calendar days before the hearing date, notice shall be mailed to:

- (i) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
- (ii) All property owners of record within 300 feet of the site;
- (iii) Affected governmental agencies as determined by the city;
- (iv) Any neighborhood or community organization whose boundaries include the property proposed for development, and which has requested notice;
- (v) Any person who submitted written comments on the application (other than a signed petition);
- (vi) Any person who submits a written request to receive notice; and
- (vii) For appeals, the appellant and all persons who provided testimony in the original decision.

5. Changes the title of Chapter 20.37 to “Public and Community Space Districts”, for consistency with the Comprehensive Plan map and to better reflect the land uses under this designation.

Chapter 20.37

Public and Community Space ~~Civic and Open Space~~ Districts

Sections:

20.37.010 Civic and institutional (CI).

- 20.37.020 Parks and recreation (PR).
- 20.37.030 Public facilities (PF).

6. Remove “by building type” from lot size requirements in sections 20.37.010(3)(a) and 20.37.030(3)(a). This term was included in error.

Chapter 20.37.010 Civic and institutional (CI).

(3) Lot Dimensions.

- (a) Minimum lot size ~~by building type~~: 7,000 square feet.
- (b) Minimum lot width: 70 feet.

Chapter 20.37.030 Public facilities (PF).

(3) Lot Dimensions.

- (a) Minimum lot size ~~by building type~~: 7,000 square feet.
- (b) Minimum lot width: 70 feet.

7. Adds language to prevent outside storage and other undesirable, unforeseen uses and activities from being accessory uses in the Downtown Mixed Use (DMU) zone in the “business services” category, due to lack of specificity in the code.

20.39.380 Business services.

(1) Defined. A facility providing ~~other~~ professional office and commercial retail businesses with services including maintenance, repair and service, testing, and rental, such as business equipment repair services, document storage, document destruction, and soils and materials testing laboratories. This use excludes maintenance, repair, and service uses that are industrial in nature or that include outdoor storage of equipment or supplies. Examples include but are not limited to: Uses that include maintenance, repair and service such as copiers or computers are allowed. Uses that include maintenance, repair and service related to plumbing, landscaping, commercial kitchens or other industrial type uses are not allowed.

8. Corrects numbering and removes a redundant section (appeals are addressed in POMC 20.54.140).

POMC 20.54.090 Administration of nonconforming permits.

- (1) The following steps shall be followed in the processing of nonconforming permits:
 - (a) Determination of complete application (POMC 20.24.~~050-060~~);
 - (b) Determination of consistency (POMC 20.24.~~090-100~~); ~~and~~
 - (c) Notice of decision by director (POMC 20.24.~~100-110~~); ~~and~~
 - ~~(d) Administrative appeal, if any (open record hearing, POMC 20.22.040).~~

9. Incorporates Director's Interpretation LU20-01 Subdivision Design – Street Length (dated June 3, 2020) into code, per POMC 20.10.040(5)(b). This interpretation provides the intent for how the block length exceptions in POMC 20.100.060(2) are granted, and allows each of the exceptions to be utilized independently of the others.

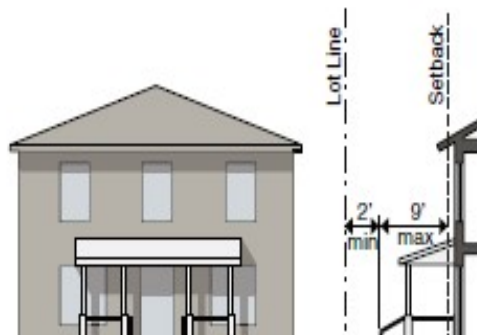
20.100.60 Street length.

(2) Where significant topographic features, or critical areas features, are present and will be retained on parcels of one-half acre or larger in size that are proposed for development, if one of the three options provided below are implemented within each block that exceeds 800 feet in face length or 2,400 feet in perimeter length, the street length standards in this section shall be considered met: ~~The length of a block or street segment may exceed the maximum length stated in subsection (1) of this section under the following conditions:~~

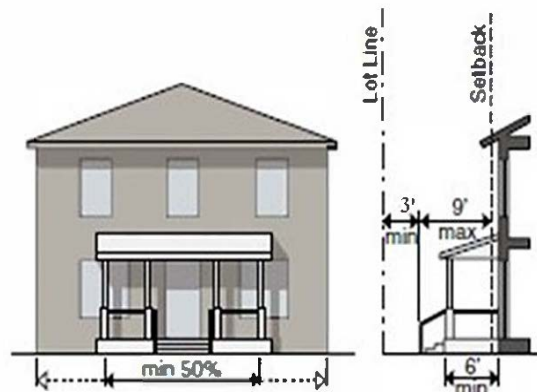
- (a) Blocks containing retention or detention ponds;
- (b) Blocks containing parks; or
- (c) Development where the proposed development abuts the rear of an existing development and no rights-of-way have been provided.

10. Corrects the first graphic illustration for section 20.122.060 – porches can be within 3 feet of a lot line, not 2 feet, per 20.122.060(4).

Existing graphic:

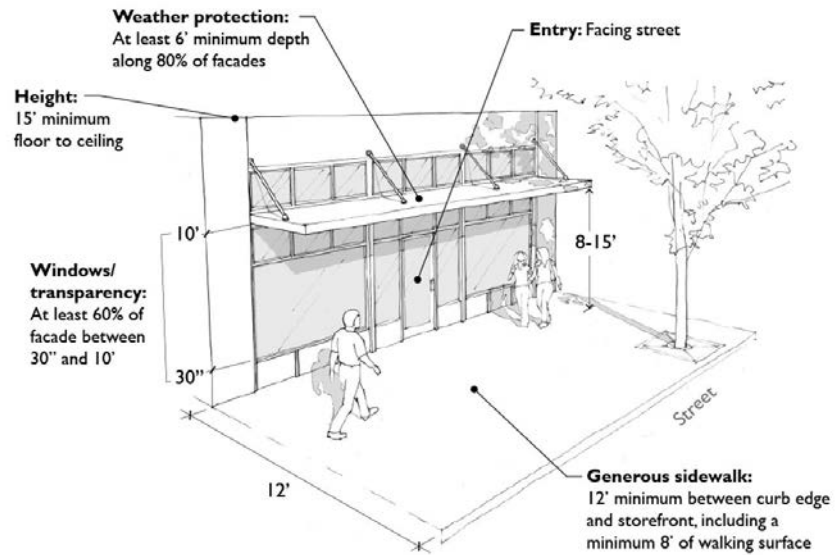


Corrected graphic:



11. In Section 20.127.150, Storefront block frontage standards, Figure 20.127.150(1) and Table 20.127.150(2) have been corrected to remove the 15 ft minimum height limit and to refer to building types for minimum height requirements as established elsewhere in code.

Original Figure:



Revised Figure:

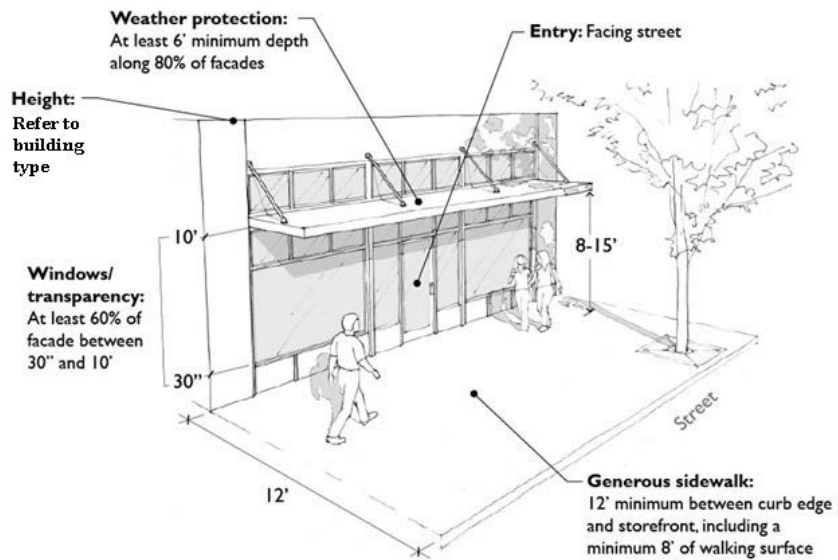


Table 20.127.150(2)
Storefront Block Frontage Standards

Element	Standards	Examples and Notes
Floor to ceiling height	15 feet minimum Refer to building type (applies to new buildings only).	

12. Removes “to which the sign applies” from a subsection of Section 20.124.340 – Vehicular Circulation and Parking. This was an erroneous insertion from another code section.

20.124.340(4) Internal Roadway Design.

(c) Drive-Through Facilities. Where allowed, drive-through facilities (e.g., drive-up windows) must comply with the following:

(i) Drive-through lanes, including waiting and holding lanes, must be buffered from the street and internal walkways by one or both of the following:

(A) A planting strip at least five feet wide with continuous plantings of evergreen shrubs and/or trees that will, at maturity, provide a continuous evergreen screen at least four feet tall.

(B) A wall at least three feet high constructed of brick, stone or siding materials that matches the principal walls of the building ~~to which the sign applies~~.

13. Revises the SEPA notice requirements for non-project actions that do not require a permit approval, such as citywide zoning designation changes, updates to development regulations, etc, where a specific site cannot be identified and posted. The City can meet its SEPA notice requirements for non-project/non-permit actions through alternative methods as provided in WAC 197-11-510, including newspaper publication, and mailing or emailing the notice to any person, group or agency who has requested notice.

20.160.190 Public notice.

(1) Whenever the city issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the city shall give public notice as follows:

(a) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due;

(b) If no public notice is required for the permit or approval, the city shall give notice of the DNS or DS in accordance with the requirements of Chapter 20.25 POMC, except that for non-project

actions as defined in WAC 197-11-774, the city shall give notice of the DNS or DS in accordance with the requirements of WAC 197-11-510(1)(b) and (g).

14. Removes stream buffer width language from the Development Standards table in the City’s Critical Areas regulations. This buffer width language was inadvertently left in from the previous version of the Critical Areas Ordinance, and is inconsistent with current stream buffer requirements.

20.162.072 Development Standards.

Table 5

CATEGORY	BUFFER WIDTH STANDARD	MINIMUM BUILDING SETBACK	OTHER DEVELOPMENT STANDARDS
Streams			
Water Type			For minor new development the department may reduce the buffer width by up to 25 percent through an administrative buffer reduction process when review with the Washington State Department of Fish and Wildlife determines that conditions are sufficient to protect the affected habitat. The buffer shall not be less than 25 feet. Where applicable, refer to the development standards in this chapter. Where such features occur on a site, the more restrictive buffer or building setback will apply.
F	150 feet	15 feet beyond buffer	
Np	50 feet	15 feet beyond buffer	
Ns	50 feet	15 feet beyond buffer	
*The buffer width for all major new development shall be 100 feet, with a 15-foot minimum building setback.			
Lakes – Less Than 20 Acres (Non-Type 1 Waters of the State)			
Zoning Designation			Where applicable, refer to the development standards in this chapter. Where such features occur on a site, the more restrictive buffer or building setback will apply.
Community Facilities	None	50 feet	
Commercial, Mixed Use	None	50 feet	
Employment	None	50 feet	
Greenbelt, Residential	None	35 feet	
Wildlife Habitat Conservation Areas			

Table 5

CATEGORY	BUFFER WIDTH STANDARD	MINIMUM BUILDING SETBACK	OTHER DEVELOPMENT STANDARDS
Class I	Buffer widths and setbacks will be determined through mandatory habitat plan.		
Class II	Site-specific conditions will determine the need for the preparation of a habitat plan for buffer widths and setbacks.		