



NOTICE OF DECISION

Issuance Date: September 28, 2022

Applicant: Contour Engineering
PO BOX 949
Gig Harbor, WA 98335

File Number(s): PW21-081, PW21-082, PW21-083

Project Name: Overlook Apartments Ph III

Type of Application(s): Land Disturbing Activity Permit, Stormwater Drainage Permit,
Concurrency Review

Assessor Parcel Number(s): 4598-005-028-0007, 4598-005-017-0208, 4598-005-024-0001,
4598-005-026-0009

Site Location: 3578 SE Orlando St

PROPOSAL:

Construction of a twenty-one (21) unit apartment building and associated infrastructure north of the approved Phase II apartments.

DETERMINATION OF CONSISTENCY 20.24.100

Administrative applications are reviewed by the City to determine consistency between the proposed project and the applicable regulations and the Comprehensive Plan provisions. A determination of consistency shall consider the type of land use, the level of development, availability of infrastructure, and the character of development. The application shall be found to be consistent with the Comprehensive Plan, the provisions of Title 20, the Washington State Environmental Policy Act (SEPA), and the City's Design Standards.

PUBLIC COMMENT AND RESPONSE:

Notice of Application was issued February 8, 2022 with comment period running through March 1, 2022. The City received one comment during the comment period, which is summarized below. Many comments were received outside of the comment period which were considered as part of the review of the project but are not included as part of the official public comments record.

Susan Daniel, February 28, 2022

The comment included concerns about the following: 1) drainage from the adjacent property and maintaining the current drainage patterns draining away from the property, 2) Street traffic on the existing extension Wendell from Orlando Street, and 3) whether fencing is required to be installed at the perimeter of the property.

City Response: 1) The project is required to maintain all natural drainage paths upstream and downstream of the subject property and this is reflected in the proposed plans, 2) The project is not proposing to connect to the extension of Wendell off Orlando and will not impact traffic on that section of road. 3) a combination of fencing and landscaping is proposed on the perimeter of the development meeting the requirements of the Port Orchard Municipal Code.

FINDINGS MADE BY THE PUBLIC WORKS DIRECTOR/CITY ENGINEER

1. Counter complete applications for LDAP, SDP, CRC were submitted on December 17, 2022.
2. The application was determined to be technically complete on January 14, 2022.
3. A Notice of Application was February 8, 2022, with a two-week comment period that ended March 1, 2022.
4. The Notice of Application was properly noticed by mailing to surrounding property owners, publishing in the newspaper of record, and posting on the site.
5. One comment was received in response to the Notice of Application and is summarized above.
6. Multiple comments were received outside the comment period and were considered as part of the review but were not included in the official public comments record.
7. The City of Port Orchard has issued a Capacity Reservation Certificate for transportation and has received capacity availability letters from West Sound Utility District for Water and Sewer.
8. The applicant requested a departure from POMC 20.127.160(2) requirement for a 10-foot landscape buffer is to be provided between off-street parking and the public street. The applicant proposed a 6-foot fence with 5-foot landscaped buffer as an alternative to the 10-foot landscape buffer to improve screening. The City finds the alternative proposal to meet the departure requirements of POMC 20.127.160(3) and approve the request as part of this permit approval.
9. The application is consistent with the Comprehensive Plan, the provisions of Title 20, the Washington State Environmental Policy Act (SEPA), and the City's Design Standards. The application is consistent with the criteria of approval as identified in this report.

Approved Documents:

- Civil Plans, stamped received August 26, 2022
- Landscape Plans, stamped received September 12, 2022
- Tree Retention Plan, stamped received August 26, 2022
- Storm Drainage Report, stamped received December 17, 2021
- Geotechnical Report, stamped received December 17, 2021

CONDITIONS OF APPROVAL

1. The decision set forth herein is based upon representations made and information submitted, including development plans and proposals, submitted to the Director. Any substantial change(s) or deviation(s) in such development plans, proposals, or conditions of

approval imposed shall be subject to the approval of the Director, and may require additional permitting, public notification and comment.

2. The authorization(s) granted herein is/are subject to all applicable federal, state and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances are conditions precedent to the approvals granted and are continuing requirements of such approvals. By accepting this/these approvals, the applicant represents that the development and activity allowed will comply with such laws, regulations and ordinances. If, during the term of the approvals granted, the developments and activities permitted do not comply with such laws, regulations or ordinances, the applicant agrees to promptly bring such developments or activities into compliance.
3. Upon approval of the application and issuance of the land disturbing activity permit, no work shall be done that is not provided for in the permit.
4. Applicable fees shall be paid prior to permit issuance.
5. The approved permit must be picked up within sixty (60) days of notification. If the permit is not picked up within 60 days of notification, it may be canceled by the director and become null and void. If the permit is canceled, the director shall notify the applicant by mail. Permit review fees are not refundable for a permit that is canceled due to a failure to pick up.
6. The land disturbing permit application expires as specified in POMC 20.140.090(4).
7. A Separate Right-of -Way (Street Excavation) permit is required when working in the City's Right-of-Way. Contact Port Orchard Permit Center at (360) 874-5533 for further information.
8. Per POMC 20.140.090(4), an issued land disturbing activity permit shall automatically expire or be extended when the building permit expires or is extended; or, if a building permit is not issued for the same site, the LDAP shall expire if the authorized work has not begun within 180 days from the date of permit issuance, or if work is abandoned for over 60 consecutive days, unless an extension has been granted. The applicant shall be responsible for notifying the director, in writing, if delays or unforeseen circumstances are impacting the start or continuation of the work. If the authorized work is continually performed, the permit shall expire one year from the date of issuance, unless a different time frame is specified on the permit or an extension is granted. Up to two one-year extensions may be granted by the director for a land disturbing activity permit, provided the request is in compliance with provisions found in POMC 20.140.090(5).
9. Per POMC 20.150.150, an issued stormwater drainage permit shall expire three years from the date of issuance if the permitted work has not yet commenced. If construction has begun and is continuing, the property owner or permit applicant may request an extension in writing to the director prior to expiration. Inspections performed and approved within every 360 days is evidence that work has commenced and is continuing. The director may grant a one-time extension not to exceed two additional years.
10. Engineering or Architecture: Any changes in proposed construction shall be reviewed by the engineer or architect of record and submitted in writing to the City of Port Orchard Public Works Department prior to any revised construction. All engineering and/or architectural documents are a part of the approved set of plans, shall remain attached thereto, and become a part of the public record at the City. If documents are removed, or

changes are made without approval from the architect or engineer and the Public Works Department, approval and occupancy will not be granted.

11. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/sea/pac/index.html> or by calling the Assistant City Engineer at (360) 876-4991. This permit is required prior to issuance of any construction permits.
12. The location is not on City water or sewer services. Your Utility Billing for storm drainage will start on the date of issuance for the Certificate of Occupancy or Temporary Certificate of Occupancy.
13. The contractor is responsible to provide the required temporary traffic control per the MUTCD.
14. Submittal and approval, by the Project Engineer, of the Operation and Maintenance Manual for privately maintained and/or non-standard stormwater facilities prior to issuance of the Certificate of Occupancy.
15. Clearing limits shall be marked on-site prior to any land clearing. Clearing limits shall be the minimum necessary to construct and install all facilities. Every effort shall be made to disturb as little of the existing natural vegetation to retain the maximum vegetation possible. Please call the Planning Department to schedule your inspection at (360)874-5533.
16. Erosion and sedimentation control devices shall be installed in accordance with best management practices. Provide gravel construction entrance mat and other appropriate BMPs as required. Protect all exposed soils. Contact Port Orchard Permit Center to schedule an inspection by calling (360) 874-5533.
17. Cover and properly locate stockpiles. (1) Earth stockpiles should be set back at least 50 feet from downslope drainage features (eg. channels, catch basins, detention ponds, pavement, stream banks, critical drainage areas); (2) Stockpiles should be located on the uphill side of the excavated area wherever possible so that they can act as diversions; (3) Earth stockpiles should not be placed on pavement without implementation of a procedure to prevent sediment transport; (4) Earth stockpiles should be completely covered or otherwise stabilized with an appropriate BMP on a daily basis during winter months and within 30 days during dry seasons; (5) The bottom of the stockpile should be circled with an interceptor swale and/or Filter Fabric Fence to catch sediment-laden runoff from the stockpile.
18. It is the responsibility of the Contactor to schedule all paving operation inspections for approval.
19. Submittal of a recorded (with the Kitsap County Auditor) Maintenance Covenant for maintenance of erosion and sedimentation control facilities located on the project site which gives the City of Port Orchard the right to inspect the facilities and guarantees the City that the facilities will be properly maintained (enclosed).
20. Erosion and sedimentation control devices shall be installed in accordance with best management practices. Provide appropriate gravel entrance mat. Protection of all exposed

soils is required. Installation and inspection is required prior to any work commencing on-site. The contractor is responsible for continued maintenance during and after construction.

21. Erosion and Sedimentation Controls are required at this time and must be installed prior to any work commencing on site. Schedule an inspection by calling the Port Orchard Permit Center at (360)874-5533.
22. Submittal of a recorded (with the Kitsap County Auditor) Maintenance Covenant for maintenance of private storm drainage facilities located on the project site which gives the City of Port Orchard the right to inspect the facilities and guarantees the City that the facilities will be properly maintained (enclosed).
23. The required drainage facilities must be inspected and approved by the City of Port Orchard Public Works Department prior to the final inspection.
24. The engineer shall provide certification to the City that the drainage conveyance pipes and structures were installed in compliance with the accepted plans.
25. Certification, by the Project Engineer that the soils encountered under any infiltration systems is consistent with the design criteria. Certification for Infiltration Soils
26. The owner/applicant shall provide certification to the City of Port Orchard that the drainage conveyance pipes and structures were cleaned prior to final site inspection.
27. Certification, by the Project Engineer, of the as-built live and dead storage volumes.
28. Submit soil compaction testing reports when complete to the City of Port Orchard Assistant Engineer.
29. WITHIN 5 FEET OF BUILDING STRUCTURE: The required sanitary sewer system must be inspected and approved by the City of Port Orchard Building Inspector prior to backfilling the trench and the final inspection. Call (360)874-5533 to set up inspection.
30. West Sound Utility District provides water and/or sewer service to this property. Connection and use must comply with WSUD standards. Call and coordinate connection and/or inspection with West Sound Utility District (360) 876-2545.
31. Permanent stabilization and restoration of the project site. Final replanting may be delayed to the appropriate season, provided that temporary soil stabilization measures are in place and financial security is provided to assure the completion of work.
32. Completion, to the satisfaction of City of Port Orchard Public Works Department, of all work indicated on the plans.
33. The Contractor must keep track of any field changes which will be turned over to the engineer of record to use in preparation of the as-built drawings for the project. The owner must submit two paper plan sets of the as-built drawings for the City review and approval prior to submitting the final paper and electronic copies. Once approved, submit as-built plans consisting of two paper copies and a disc with dwg AND high-resolution pdf digital drawings.
34. All replacement significant trees must be bonded with the other required landscaping improvements
35. POMC 20.129.040:(c) Replacement deciduous trees shall be fully branched, have a dominant leader branch, have a minimum caliper of one and one-half inches (as measured

24 inches above the root ball), and a minimum height of six feet at the time of planting as measured from the top of the leader branch to the top of the root ball.

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

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

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

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

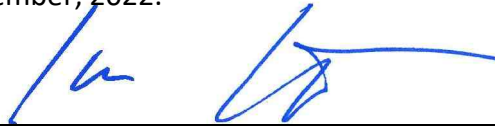
36. **LIABILITY INSURANCE.** A Certificate of Liability Insurance is required prior to issuance of a stormwater drainage permit. The liability insurance shall remain in force until final project approval is issued by the City. The commercial liability insurance shall be in the amount of not less than \$1,000,000 combined single limit bodily injury and property damage, with a \$2,000,000 aggregate. Such insurance shall include the city of Port Orchard, its officers, and employees as additional insureds, with respect to the terms and conditions of the policy. The Certificate must be submitted to the Permit Center Office at 720 Prospect Street.
37. A landscape maintenance bond will be required upon final inspection and approval of the landscaping per the final landscape plan. The owner of the subject property shall provide a two-year landscape maintenance bond, cash set-aside, or other assurance acceptable to the city (hereafter "assurance") in an amount equal to 125 percent of the estimated landscaping and installation costs for the project. It shall be the owner's responsibility to request a landscape maintenance inspection at least two years after city acceptance upon final landscaping installation inspection. The assurance shall not be released by the city unless the city finds upon inspection that the landscaping has been maintained and is in good health. If the city finds that the landscaping has not been maintained or is not in good health, the city may at its option require the owner to maintain and restore the required landscaping to healthy conditions prior to releasing the landscape maintenance assurance, or may itself perform work to correct the deficiencies using the provided assurance. In the event that a significant amount of the required landscaping requires replacement as determined by the director, the city may require an additional two-year landscape maintenance assurance on all or a portion of the required landscaping.
38. **SOIL AMENDMENTS:** All disturbed areas proposed as landscape or lawn shall install soil amendments per Department of Ecology BMP T5.13 Post-Construction Soil Quality and Depth. Please coordinate soil amendments with Public Works inspector prior to installation.

DECISION

A Type II permit action is reviewed and considered in accordance with the procedures for such actions as set forth in Subtitle II of POMC Title 20 and applicable chapters.

The request to construct an apartment building and associated infrastructure, as described and set forth in this report and decision, is hereby approved subject to the conditions of approval listed above.

ORDERED this 28th day of September, 2022.



Ian Smith, PE, Civil Engineer II, on behalf of,
K. Chris Hammer, PE
City Engineer

The effective date of approval for this request is October 12, 2022, provided no appeal is filed.

APPEAL PROCEDURES

PLEASE NOTE: This approval is subject to a 14-day appeal period per POMC Chapter 20.22.040.

APPEAL PERIOD CLOSES: October 12, 2022 at 4:00 PM.

APPEAL TO HEARING EXAMINER: Pursuant to Section 20.22.040 of the *Port Orchard Municipal Code*, a party of record may file an appeal within fourteen (14) days after the issuance of the Notice of Decision.

DISTRIBUTION

Full Decision transmitted this 28th day of September, 2022 by email and first-class mail to:

Contour Engineering, PO BOX 949 Gig Harbor, WA 98335 Jeremy.haug@contourengineersllc.com

BRIXX Development, 2680 Seychelles Ct, Salt Lake City, UT 84121, brett@brixxdevelopment.com

Full Decision transmitted to Parties of Record by either email or first-class mail as noted:

Arthur Lachica, Arthur.lachica@srf.navy.mil (email)

Matthew & Mackenzie Euten, mac120590@gmail.com (email)

Susan Daniel, sdaniel@537@aol.com (email)

Amy & Isaac Sharrett, asharrett@hotmail.com (email)

Marina van Waasen, mvwaasen@gmail.com (email)

CONTACT INFORMATION

For additional information concerning this permit please contact:

Ian Smith, PE, Civil Engineer II
Public Works Department
216 Prospect Street
Port Orchard, WA 98366
360-876-4991