



NOTICE OF DECISION

Issuance Date: June 30, 2023

Applicant: NL Olson & Associates, Inc.
2453 Bethel Avenue
Port Orchard, WA 98366

File Number(s): PW21-040, PW21-041

Project Name: Hidden Hills Apartments

Type of Application(s): Land Disturbing Activity Permit, Storm Drainage Permit, Capacity Reservation Certificate (Type II)

Assessor Parcel Number(s): 012301-3-125-2001, 012301-3-107-2002

Site Location: Property between Bethel RD SE & SE Salmonberry Rd

PROPOSAL:

Construction of a 116-unit Apartment complex and associated infrastructure.

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 July 25, 2022 with comment period running through August 8, 2022. The City received two comments during the comment period, which are summarized below.

Aubrey Northup, email sent July 29, 2022

Comment: The comment asked about 1) a previous project and if the same setback will apply to the currently proposed project; 2) asked if the apartment complex is subsidized for low-income families; 3) expressed concern for adding traffic to an already burdened street system at Salmonberry and Bethel as well as other intersections along Bethel and Sedgewick.

City Response: 1) The previous project permit was withdrawn from the City, the new project is proposing a minimum of 10-ft setback from the property line in question; 2) this permit does not take into consideration if the project is subsidized for low-income which would be discussed at the time of building permit; 3) the project submitted a Traffic Impact Analysis for the

increase in demand for the public street system which was reviewed and approved by the City's Third Party Traffic Engineering Consultant. The City is currently in design for construction of multiple roundabouts along the Bethel Corridor (Salmonberry, Mitchell/Lincoln, Blueberry) which have funding for construction and has adopted the Bethel Corridor Plan which outlines the plan for the remaining intersections.

Fleet Hambly, letter sent August 8, 2022

Comment: The comment listed the following items as concerns about the project 1) the downstream stormwater systems are inadequate and the development will impact downstream property; 2) indicates that eagle trees are on the adjacent property to the south; 3) requests a fence along the property to protect residence from cattle; 4) express concerns about single fire access for the project and offered an easement for fire access in exchange for compensation.

City Response: 1) The project is proposing to maintain natural drainage paths and meet the flow control requirements listed in the adopted Department of Ecology Stormwater Management Manual for Western Washington which matches predeveloped conditions; 2) the applicant conducted a survey of the property for the presence of Bald Eagle Nests and submitted a report indicating there are none present onsite; 3) the developer has the options of installing a fence as part of the landscape buffer treatment; 4) the project has been reviewed by the City's Fire Authority and found to be compliant with local and state fire codes as proposed.

FINDINGS MADE BY THE PUBLIC WORKS DIRECTOR/CITY ENGINEER

1. Counter complete applications for LDAP, SDP, and CRC were submitted on June 21, 2021.
2. Revised documents were submitted on July 6, 2021; October 4, 2021; and October 13, 2021.
3. The application was determined to be technically complete on October 18, 2021.
4. A Notice of Application was issued July 25, 2022, with a two-week comment period that ended August 8, 2022.
5. The Notice of Application was properly noticed by mailing to surrounding property owners, publishing in the newspaper of record, and posting on the site.
6. Two comments were received in response to the Notice of Application and are summarized above.
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 City of Port Orchard's third-party consultant, Grette and Associates, LLC, reviewed the submitted Wetland Mitigation Plan and associated reports and found the proposal meets all requirements listed in Port Orchard Municipal Code Chapter 20.162.
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 March 24, 2023.
- Storm Drainage Report, stamped received June 6, 2022.
- Landscape Plans, stamped received March 24, 2023
- Geotechnical Report, stamped received October 4, 2021
- Wetland Mitigation Report, stamped received March 24, 2023

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. Should the proponent propose phasing of the project, a phasing plan shall be submitted to City Public Works Department for review and approval. The phasing plan shall, as a minimum, address the following items: 1) Time tables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization of that specific phase. 2) The extent of drainage improvements to be installed during the various phases.
13. 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.
14. The contractor is responsible for providing the required temporary traffic control per the MUTCD.
15. 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.
16. 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 in order to retain the maximum vegetation possible. Please call the Planning Department to schedule your inspection at (360)874-5533.
17. 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.

18. Cover and properly locate stockpiles. (1) Earth stockpiles should be set back at least 50 feet from downslope drainage features (e.g. 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.
19. It is the responsibility of the Contactor to schedule all paving operation inspections for approval.
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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. 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.
26. Certification, by the Project Engineer, of the as-built live and dead storage volumes.
27. Submit soil compaction testing reports when complete to the City of Port Orchard Assistant Engineer.
28. 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.
29. 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.
30. 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.
31. Completion, to the satisfaction of City of Port Orchard Public Works Department, of all work indicated on the plans.

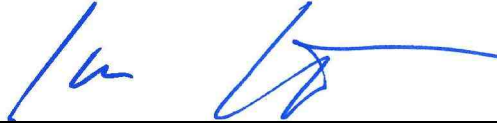
32. The Contractor must keep track of any field changes which will be turned over to the engineer of record to use in preparation of the as-built drawings for the project. The owner must submit two paper plan sets of the as-built drawings for the City review and approval prior to submitting the final 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.
33. It is the permittee's responsibility to verify, prior to commencing land disturbing activities, that the project complies with all applicable Federal and State requirements concerning permanent wetland fill, wetland creation, and regulated buffer impacts.
34. Prior to Certificate of Occupancy of any project buildings the project proponent shall either enter into a fee in lieu of construction agreement with the City or install the offsite street improvements required by code for the project. The required offsite street improvements are listed in the SEPA MDNS issued August 19, 2022.

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 develop the site for an apartment complex, as described and set forth in this report and decision, is hereby approved subject to the conditions of approval listed above.

ORDERED this 30th day of June, 2023.



Ian Smith, PE, Assistant City Engineer,
On behalf of,
Tony Lang, Public Works Director

The effective date of approval for this request is July 14, 2023, 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: July 14, 2023 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 30th day of June, 2023 by email and first class mail to:

**NL Olson & Associates, Inc., 2453 Bethel Avenue, Port Orchard, WA 98366, nlolson2@nlolson.com
He Development LLC, 4631 SE Bakken Ct, Port Orchard, WA 98366, zhillhe@gmail.com**

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

Aubrey Northup, aubreytosborne@gmail.com (email)

Fleet Hamby, 4154 Harris Rd SE, Port Orchard, WA 98366 (mail)

Kitsap Transit, Edward Coviello, edwardc@kitsaptransit.com (email)

Joella Folk, drjoella@chiromidwife.com (email)

Department of Ecology, Neil Molstad, neil.molstad@ecy.wa.gov (email)

WSDOT, Development Services, Andy Larson, LarsonA@wsdot.wa.gov (email)

CONTACT INFORMATION

For additional information concerning this permit please contact:

Ian Smith, PE, Assistant City Engineer
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216 Prospect Street
Port Orchard, WA 98366
360-876-4991