



## NOTICE OF DECISION

Issuance Date: June 2, 2023

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

**File Number(s):** PW22-024, PW22-025, PW22-026

**Project Name:** Salmonberry Rd Apartments

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

**Assessor Parcel Number(s):** 012301-2-078-2000

**Site Location:** 1695 SE Salmonberry Rd

### **PROPOSAL:**

Construction of an apartment complex (24-units) and associated site infrastructure. Sewer and water services to be provided by West Sound Utility District.

### **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 May 10, 2022 with comment period running through May 24, 2022. The City received one comment during the comment period, which is summarized below.

Aaron Gallington, letter emailed May 19, 2022

Comment: The commentor questioned the listed size of the parcel, the ownership of a portion of the parcel, and requested that the property be officially surveyed and staked, and a copy be provided to the commentor.

City Response: The property is required to be surveyed by a licensed surveyor as required by City municipal code. The size and ownership of the property is listed on the survey notes and the property is listed as larger than the original short plat due to a quiet title action which is indicated on the plans. The property extents will be surveyed by the project proponent during construction.

## **FINDINGS MADE BY THE PUBLIC WORKS DIRECTOR/CITY ENGINEER**

1. Counter complete application for an LDAP and SDP were submitted on March 29, 2022.
2. The application was determined to be technically complete on April 26, 2022.
3. A Notice of Application was May 10, 2022, with a two-week comment period that ended May 24, 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. 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.
7. 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 May 4, 2023.
- Landscape Plans stamped received May 4, 2023.
- Storm Drainage Report stamped received March 29, 2023.
- Geotechnical Report stamped received March 29, 2022.

## **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) Timetables 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 BMP's 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 Contractor to schedule all paving operation inspections for approval.
20. 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).
21. Erosion and sedimentation control devices shall be installed in accordance with best management practices. Provide appropriate gravel entrance mat. Protection of all exposed soil 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.
22. 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.
23. 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).
24. The required drainage facilities must be inspected and approved by the City of Port Orchard Public Works Department prior to the final inspection.

25. The engineer shall provide certification to the City that the drainage conveyance pipes and structures were installed in compliance with the accepted plans.
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. 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 an 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 the as-built plan set drawings to the Permit Center for the City's review and approval prior to submitting the final copies. Once approved, submit as-built plans to the Permit Center consisting of one paper copy and an electronic copy of both DWG and vector-converted PDF digital drawings.
33. UG fire line design has not been provided with this submittal between the vault and the buildings. Approval of the design is required prior to installation of UG fire lines.
34. 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 the Public Works inspector prior to installation.
35. Prior to Certificate of Occupancy of any building the project proponent shall either enter into a fee in lieu of agreement with the City or construct the frontage improvements required by code for the project. At a minimum, the frontage improvements shall include a bike lane, curb and gutter, landscape planter with street trees, sidewalk, street illumination, and required street restoration as required in applicable code.

## **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 complex, as described and set forth in this report and decision, is hereby approved subject to the conditions of approval listed above.

ORDERED this 2<sup>nd</sup> 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 June 16, 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: June 16, 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 2<sup>nd</sup> day of June, 2023 by email and first class mail to:

*Family Legacy Development, LLC, 7809 Pacific Ave, Tacoma, WA, 98408, [me@stevenovotny.com](mailto:me@stevenovotny.com)  
Contour Engineering, LLC, P.O. Box 949, Gig Harbor, WA 98335, [jeremy.haug@contourengineeringllc.com](mailto:jeremy.haug@contourengineeringllc.com)*

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

Aaron Gallington, [agallington04@gmail.com](mailto:agallington04@gmail.com) (email)

Sharon and Larry Einspahr, [Sharon.einspahr@gmail.com](mailto:Sharon.einspahr@gmail.com) (email)

### **CONTACT INFORMATION**

For additional information concerning this permit please contact:

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