RESOLUTION NO. 031-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE COMPREHENSIVE PLAN UNDER THE GROWTH MANAGEMENT ACT; DENYING COMPREHENSIVE PLAN AMENDMENTS FOR LAND USE DESIGNATIONS AND ZONING MAP DESIGNATIONS SUBMITTED BY DAVE VOGEL AND BETHEL ROAD LLC AND DENYING THE PARKS PLAN TEXT AMENDMENTS SUBMITTED BY THE MAYOR.

WHEREAS, the City of Port Orchard plans under the Growth Management Act (chapter 36.70A RCW), which requires that the City adopt a Comprehensive Plan (RCW 36.70A.040); and

WHEREAS, the City may annually adopt amendments to the City’s Comprehensive Plan (RCW 36.70A.470 and 36.70A.106); and

WHEREAS, the City’s deadline for submission of applications for amendments to the Comprehensive Plan for the year 2014 was June 16, 2014; and

WHEREAS, the City received seven applications for amendments to the Comprehensive Plan and the City’s Development Regulations before the deadline; and

WHEREAS, the SEPA Responsible Official performed SEPA on the applications and issued a Determination of Nonsignificance (DNS) on November 7, 2014; and

WHEREAS, on September 15, 2014, the Planning Commission held a public hearing on the applications and after hearing public testimony, deliberated and issued their recommendations; and
WHEREAS, the Planning Commission’s recommendation was delivered to the City Council, and the City Council considered the recommendation during a public hearing held by the City Council on November 4, 2014; and

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON,

RESOLVES AS FOLLOWS:

Section 1. The City Council considered the comprehensive plan amendments and the Planning Commission’s recommendations on each of the following applications:

A. Vogel Amendment.

1. Description. The amendment as described in the Dave Vogel application consisted of Comprehensive Plan Map Land Use designation and Zoning Map changes to parcel 352401-4-013-2003. It is proposed that the western portions of the ten acre parcel be granted a zoning change from Greenbelt as shown on the City’s Official Zoning Map to the Commercial Zone, and a change of the Comprehensive Plan Land Use Designation for the property from Greenbelt to Commercial on the Comprehensive Plan Land Use Map.

2. Findings. The Greenbelt Comprehensive Plan Land Use Designation was created to ensure that lower densities occur in the close proximity of critical and environmentally sensitive areas. Representatives of the Suquamish Tribe provided a letter expressing opposition to the proposal. Testimony was offered at a Public Hearing before the Planning Commission on September 15, 2014 from neighbors surrounding the property subject to this amendment who indicated an opposition to the proposal due to reasons including a lack of suitable commercial access to the property which was the subject of the application. Testimony was offered at a Public Hearing before the Planning Commission on September 15, 2014 from the applicant as a proponent of the proposal.

3. Staff Recommendation: City staff has recommended denial of the proposed Vogel Amendment.


5. Council Conclusions: The City Council concludes that the proposed zoning map amendment and comprehensive plan land use map amendment would likely result in impacts to adjacent property owners which cannot be mitigated due to commercial access limitations to the site from Lund Ave and Sidney Ave. The applicant did not demonstrate that a viable option for commercial access to the site from Lund Ave or Sidney Avenue existed. In the absence of viable commercial access from Lund Ave
and Sidney Avenue, residents of the residential access street "Bill Ave" would potentially be impacted by commercial traffic accessing this site. In addition, this proposal would introduce commercial land use and zoning designations to an area of the city which is currently designated Residential and Community Facilities (Lundberg Park and Van Zee Park). A Commercial designation at this location is seen as incompatible with the surrounding residential uses. The City Council concludes that the proposal does not meet the criteria for granting approval as found in POMC 16.05.040.

B. Bethel Road LLC Amendment.

1. Description. The amendment as described in the Bethel Road LLC application consisted of Comprehensive Plan Land Use Map and Zoning Map changes to parcel 352401-1-002-2002. It is proposed that the eastern portions of this parcel be granted a zoning change from Greenbelt as shown on the City’s Official Zoning Map to the Commercial Zone, and a change from the Comprehensive Plan Map Designation for the property from Greenbelt to Commercial on the Comprehensive Plan Land Use Map. The exact boundaries of the change were shown on a site plan submitted with the application.

2. Findings. The Greenbelt Comprehensive Plan Designation was created to ensure that lower densities occur in the close proximity of critical and environmentally sensitive areas. Representatives of the Suquamish Tribe provided a letter expressing opposition to the proposal. Public testimony was not offered on the proposal at a Public Hearing before the Planning Commission on September 15, 2014 or at the Public Hearing before the City Council on November 4, 2014 including from the applicant. State Department of Natural Resources maps indicate that areas proposed for commercial designation in this proposal as shown on the site plan submitted by the applicant are a "geohazard area of concern."

The Blackjack Creek Management Plan applies to this property and identifies the need to address "the area surrounding the creek, particularly the area between the creek and the bluff of the ravine on each side of the creek, should be addressed by either zoning or policy guidelines which will promote or limit the types of development which will be consistent with other sections of this report. Three alternative approaches which might be utilized for that area outside of the shoreline designations, but still within the ravine are as follows:

a. Create a new zoning classification for the Blackjack Creek area. Presently the area which roughly corresponds to the Shoreline Master Program, i.e. 200 feet on each side of the creek, is designated as Greenbelt under the City’s current zoning. This allows for 8,000 square foot lots and residential development of this area. Most of the remaining area between the creek and the edge of the bluff is presently zoned Residential Low, which would allow for one unit per every 10,000 square feet. These designations allow development densities which are both impractical and undesirable along Blackjack Creek given the topography, soils stability hazards, and access problems.
A new zoning for Blackjack Creek would very specifically define the uses which the City would allow in the Blackjack Creek ravine and along the creek, including setbacks from the edge of bluff, setbacks from the creek itself, open space requirements and the types of environmental analysis which would be required in order to develop under the new zone.

b. Utilize existing zoning.

The City has an existing zoning designation which would be more consistent with the Natural shoreline designation and more realistic given the constraints of the area on each side of Blackjack Creek. This zone is the Open Space zone which allows one unit for two and one half acres as opposed to one unit for 8,000 square feet of the Greenbelt zone. Under the Open Space zoning, single family homes on lots adjacent to and within the Blackjack Creek ravine would still be allowed. However, this would increase the acreage of lots in order to address issues such as landslides, drainage, and aesthetics.

c. Policies and Development Standards.

This third alternative would be to develop an overlay of policies and development standards which would apply to a defined area of Blackjack Creek. An example of how these policies and development standards could be applied to Blackjack Creek follows....” (See Pages 37 and 38 of the Blackjack Creek Management Plan)

3. **Staff Recommendation:** City staff has recommended denial of the proposed Bethel Road LLC Amendment.

4. **Planning Commission Recommendation:** The Planning Commission recommended a denial of the proposed Bethel Road LLC Amendment.

5. **Council Conclusions – Rezones:** The City Council concludes that this proposal is not consistent with the Blackjack Creek Management Plan (incorporated into the City’s Comprehensive Plan by reference in Appendix G) because it designates areas located below the top of the Blackjack Creek ravine for Commercial use. The Council further concludes that it would not be prudent to designate areas identified in Department of Natural Resource maps as “Geohazard Areas of Concern” for Commercial use. The City Council concludes that the proposal does not meet the criteria for granting approval as found in POMC 16.05.040.

C. **The Parks Plan Amendment.**

1. **Description.** The Parks Plan amendment consists of 3 separate issues; (1) Renaming Central Park as Clayton Park, (2) Designating Lundberg Park as a barrier free ADA accessible park, and (3) Designating a portion of the Park identified in the Parks Plan as “Bethel South Property” as an off-leash dog park.

2. **Findings.** At the June 12, 1972 Port Orchard City Council meeting as reflected in meeting minutes, Mayor Powers reported on the dedication of the Clayton
Memorial Park. Clayton Memorial Park is currently identified in the City’s Parks plan as “Central Park.” The City of Port Orchard has not identified any of its parks as “Barrier Free ADA Accessible.” The City does not have any designated off leash dog areas within the city limits. The “Bethel South Property” is located on Bethel Ave and this particular section of Bethel Avenue is classified as a minor arterial.

3. **Staff Recommendation:** City staff has recommended approval of the Parks Plan Amendments.

4. **Planning Commission Recommendation:** The Planning Commission recommended approval of Parks Plan Amendments 1 and 3.

5. **Council Conclusions – Text Amendment:** The City Council concludes that in 1972, improvements at Central Park coincided with a rededication of the park as Clayton Park but that any official name change should be part of a broader public process. The Council concludes that specific plans for Lundberg Park should be developed through a broad public process. The City Council concludes that there is insufficient public support for designating a portion of “Bethel South Property” as an off-leash dog park at this time. The Council also concludes that traffic volumes on Bethel Road adjacent to the Bethel South Property are incompatible with designating this site as an off-leash dog park in the absence of plans detailing how to ensure the safety of dogs and dog owners at this location.

**Section 2. Applications Denied.** The 2014 applications to amend the Port Orchard Comprehensive Plan listed as follows are hereby denied:

A. The Vogel Amendment.

B. The Bethel Road LLC Amendment

C. The Parks Plan Text Amendments

**Section 3. Severability.** If any section, sentence, clause or phrase of this Resolution should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Resolution.

PASSED by the Council and approved by the Mayor of the City of Port Orchard, this 25th day of November, 2014.
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Timothy C. Matthes, Mayor

ATTEST/AUTHENTICATED:

Brandy Rinearson, CMC, City Clerk