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CITY OF PORT ORCHARD
PLANNING DEPARTMENT

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF PORT ORCHARD**

In the Matter of the Application of)	No. CUP 034-10
)	
Thair Jorgenson, P.E.)	Sedgwick Landing CUP
)	
)	
)	FINDINGS, CONCLUSIONS,
For a Conditional Use Permit)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to construct 13 residential duplex structures on 3.7 acres located at the northwest corner of Sidney Road SW and SW Sedgwick Road, in Port Orchard, Washington is **GRANTED**. Conditions of approval are necessary to mitigate specific project impacts.

SUMMARY OF RECORD

Request:

Thair Jorgenson, P.E., requests a conditional use permit to construct 13 residential duplex structures with 26 dwelling units; private access roads; storm drainage facilities; and landscaping. The property subject to the request is located at the northeast corner of Sidney Road SW and SW Sedgwick Road, in Port Orchard, Washington.

Hearing Date:

The Hearing Examiner held an open record hearing on the request on August 19, 2010.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- Tom Bonsell, City Planner
- Thair Jorgenson, P.E., Applicant
- Michael Desmarteau, Principal Project Architect for the Applicant
- Mark Dorsey, City Engineer

Exhibits:

The following exhibits were admitted into the record:

1. Pre-Application letter, dated May 10, 2010
2. Application submittal, including the following documents:
 - A. Application, dated June 8, 2010
 - B. Contact Information, dated June 3, 2010
 - C. Letter authorizing Thair Jorgenson as agent for project, dated May 26, 2010
 - D. Property Owners List verification statement, map, and list, dated June 2, 2010

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- E. Legal description and tax parcel numbers, received June 9, 2010
- F. Project narrative, addressing code criteria for Conditional Use Permit, and Figures, dated May 18, 2010
- G. Conceptual drainage report, dated June 4, 2010
- H. Wetland Determination report and cover letter, dated March 30, 2002, and May 19, 2010
- I. Traffic Impact Analysis, dated June 9, 2010
- J. Joint Aquatic Resources Permit Application (JARPA) for ditch realignment, dated June 8, 2010
- K. Environmental Checklist, dated June 8, 2010
- L. Site Plans – Architectural, Elevation, Grading & Drainage, and Utilities, received June 9, 2010
- M. Vicinity Map, received June 9, 2010
- 3. Kitsap County Parcel Search Map & Property Report, dated June 10, 2010
- 4. Application Transmittal for review of submitted documents, dated June 10, 2010
- 5. Letter of complete, Determination of Completeness, dated June 11 and 12, 2010
- 6. Comment memo from Greg Rogers, South Kitsap Fire & Rescue, dated June 16, 2010
- 7. Letter from John Laufenberg, Wetland Resources, Inc., regarding existing ditch on property, dated June 24, 2010
- 8. Document transmittal for review of letter regarding existing ditch, dated June 25, 2010
- 9. Comments from Port Orchard Public Works, Brian Miller, Eng Tech II, dated June 21, 2010
- 10. Notice of Application – SEPA Threshold Determination, dated July 16, 2010
- 11. Affidavit of Mailing & Posting of NOA/SEPA, signed July 16, 2010
- 12. Affidavit of Publication of NOA/SEPA, signed July 16, 2010
- 13. Comments from Dave Greetham, Environmental Planner, Kitsap County, with 3 attachments, dated July 19, 2010
- 14. Comments from Michael Desmarteau, Principal Architect, North Pacific Design, with one attachment, dated July 22, 2010
- 15. Comments from Dean Cooper, dated July 28, 2010
- 16. Comments from Mark Dorsey, City Engineer, Port Orchard, dated July 30, 2010
- 17. MDNS – SEPA Determination, issued July 30, 2010
- 18. MDNS Distribution list, dated August 2, 2010
- 19. Public Hearing Notice, dated August 6, 2010
- 20. Affidavit of Mailing and Posting Hearing Notice, dated August 6, 2010
- 21. Affidavit of Publication for Hearing Notice, dated August 6, 2010
- 22. E-mail from Andrea Archer, Port Orchard Assistant Engineer, regarding conditions, dated August 6, 2010
- 23. Staff Report, prepared for August 19, 2010, hearing
- 24. Amended Site Plans- Architectural, Elevation, Grading & Drainage, and Utilities, received August 19, 2010

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The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

1. Thair Jorgenson, P.E. (Applicant) requests a conditional use permit (CUP) to construct 13 residential duplex structures on 3.7 acres. The proposed development would also include construction of private access roads, storm drainage systems, and landscaping. The property is located at the northeast corner of Sidney Road SW and SW Sedgwick Road in Port Orchard, Washington.¹ *Exhibit 2.A; Exhibit 2.D; Exhibit 2.E; Exhibit 2.F; Exhibit 23, Staff Report, page 1.*
2. The City of Port Orchard (City) received the CUP application on June 9, 2010, and determined it was complete on June 14, 2010. On July 16, 2010, the City mailed notice of the application and threshold environmental determination to owners of property surrounding the subject property; posted notice on the property; and published notice of the application in the *Port Orchard Independent*. On August 6, 2010, the City posted notice of open record hearing associated with the application; mailed notice to surrounding property owners; and published notice in the *Port Orchard Independent*. *Exhibit 2.A; Exhibit 5; Exhibit 11; Exhibit 12; Exhibit 16; Exhibit 20.*
3. The City acted as lead agency to analyze the environmental impact of the proposed use, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. The City reviewed the environmental checklist and other information on file with the City, and determined that, with conditions, the proposed project would not have a probable significant adverse impact on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) on August 2, 2010. Mitigation conditions address stormwater drainage, traffic impacts, water and sewer improvements, vehicle and pedestrian access, parking, and recreation areas. No appeal of the MDNS was filed. The MDNS conditions are incorporated into the proposed conditions for the CUP. *Exhibit 17; Exhibit 18; Exhibit 23, Staff Report, pages 8-9.*
4. The property is designated Commercial under the City Comprehensive Plan. Adjacent property to the west is likewise designated Commercial. Property to the north is located within Kitsap County and is designated Urban High Density Commercial. Property to the south is designated High Density Residential. Property to the east is designated Rural Protection. *Exhibit 2.A; Exhibit 2.F; Exhibit 23, Staff Report, page 2.*
5. According to the December 2009 Final Comprehensive Plan, the economic centers of the City provide centralized retail, professional office facilities, tourist and related services.

¹ The subject properties are identified by tax parcel numbers 102301-1-002-2002 and 102301-2-003-2001. *Exhibit 2.A; Exhibit 2.C; Exhibit 23, Staff Report Page 1.* A legal description of the property is included with the CUP application. *Exhibit 2.C.*

The commercial zoning designation provides the most comprehensive list of uses to support the goals and policies of economic and housing sections. The Comprehensive Plan promotes multi-family housing within the Commercial zone as a planning tool that supports pedestrian access to retail businesses. Land Use goals and policies support walkable mixed-use areas to reduce traffic and a wide variety of housing types. The Comprehensive Plan emphasizes community centers, including at the Sidney/Sedgwick intersection, which provide goods and services to several neighborhoods through a mix of land uses. Housing goals and policies encourage flexible development standards for housing proposed near critical areas.² The City reviewed the proposed use and determined that it would further the general health, safety and welfare of the community, consistent with the Comprehensive Plan. *City Comprehensive Plan, Chapter 2, Land Use, pages 2-10, 2-11, 2-23, 2-24, 2-25; Comprehensive Plan, Chapter 3, Housing, pages 3-6 and 3-10; Exhibit 23, Staff Report, page 2.*

6. The property is located within the City's Commercial retail and office zoning district (Co), as is adjacent property to the west. Adjacent property to the north is zoned Highway Tourist Commercial. Property to the south is zoned Multi-Family (R-20). Property to the east is zoned Rural Protection. Adjacent property to the north, south, and west is undeveloped. Property to the east is developed for retail commercial and health clinic uses. City Planner Tom Bonsell testified that adjacent property to the north has been approved for commercial development by Kitsap County. He explained that there would be no connection between the present residential development and any development on adjacent property to the north. *Exhibit 2.A; Exhibit 2.F; Exhibit 13; Exhibit 23, Staff Report, page 2; Testimony of Mr. Bonsell.*
7. The purpose of the Co zone is to provide for the broadest mix of retail, service, office, and commercial recreation/cultural uses serving the Port Orchard and surrounding market areas and offering significant employment opportunities. *Port Orchard Municipal Code (POMC) 16.13.150(1)*. Multi-family residential developments are allowed within the Co zone as a conditional use, subject to the conditional use review procedures and general requirements specified in Chapter 16.30 POMC. *POMC 16.30.080*. The purpose of a conditional use permit is to allow certain uses deemed necessary to the public convenience but possessing characteristics not easily identified with any particular zone classification. The conditional use permit is a mechanism by which special conditions may be placed on development or to ensure that designated uses or activities are compatible with other uses in the vicinity. *POMC 16.35.010(1) and (2)*.
8. The proposed residential development would be located in the western and northern portion of an 18.4-acre mixed-use development area. The mixed-use development

² The City identifies the following goals and policies as particularly relevant to the proposed use: Land Use Policies POLU-22, POLU-34, POLU-37, and POLU-38; and Housing Policies HS-9 and HS-38. *Exhibit 23, Staff Report, page 2.*

contains three existing retail buildings: a Burger King, the Franciscan Medical Building, and associated parking. The northeast portion of the development area would feature a restaurant and another medical office building. Michael Desmarteau, Architect, testified for the Applicant that the existing Franciscan Medical Building was the first phase of development; and the commercial development was second. The proposed residential project is the third phase. The proposed restaurant and medical office building would be constructed at a later phase, and are not part of the residential use reviewed as part of this proposal. The residential development would likely be constructed within the year. *Exhibit 2.F; Exhibit 2.L; Exhibit 2.M; Exhibit 23, Staff Report, pages 1, 2, 7; Exhibit 24; Testimony of Mr. Desmarteau.*

9. The property is generally flat, with mild slopes ranging from two to five percent running from south to north. The proposed project area is undeveloped. Land to the north, west, and south, within the overall mixed-use development, is set aside as wetland mitigation and buffer areas. The Applicant proposes constructing 13 duplex structures for a total of 26 dwelling units measuring approximately 1,800 square feet each. *Exhibit 2.F; Exhibit 2.L; Exhibit 23, Staff Report, pages 1, 2, 7.*
10. SW Sedgwick Road runs generally east/west along the southern edge of the mixed-use development area. Sidney Road SW runs north/south along the eastern edge of the overall development. Existing private access roads extend through the mixed-use development, connecting to SW Sedgwick Road and Sidney Road SW. A three-lane ingress/egress driveway would connect the residential development to the existing private roads in the northwestern portion of the property, at the western edge of the proposed restaurant parking area. Mark Dorsey, City Engineer, testified that the proposed turn-around at the southwest end of the proposed private road would comply with fire code requirements. *Exhibit 2.F; Exhibit 2.L; Exhibit 23, Staff Report, pages 1 – 7; Exhibit 24; Testimony of Mr. Dorsey.*
11. Heath & Associates, Inc., prepared a Traffic Impact Analysis (TIA) for the Applicant dated June 9, 2010. The TIA determined that the existing development entrances onto both SW Sedgwick Road and Sidney Road SW provide adequate sight distances. The TIA reviewed traffic delays at the intersections of Sidney Road SW / SW Sedgwick Road, Sidney Road SW / development entrance, and SW Sedgwick Road / entrance to determine existing traffic levels. The TIA found that the intersections currently operate at Level of Service (LOS) C and above.³ The proposed residential development is

³ Capacity analysis is used to determine level of service (LOS) which is an established measure of congestion for transportation facilities. LOS A represents primarily free-flow operations at average travel speeds. LOS C represents stable operations, with longer queues and lower average travel speeds. LOS F characterizes arterial flow at extremely low speeds, with intersection congestion likely, with long delays and extensive queuing. *Exhibit 2.I, pages 6, 8, 18 – 20.*

anticipated to produce 16 additional AM peak hour trips, 21 additional PM peak hour trips, and an average of 199 total additional daily trips. The TIA concluded that traffic would continue to operate at LOS C or better with the proposed residential development. *Exhibit 2.I.*

12. The Applicant would construct a nature trail meandering through the existing wetland buffer along the perimeter of the residential development. The nature trail would connect to the existing pedestrian pathways in the commercial portion of the mixed-use development. The Applicant would also construct a sidewalk along one side of a portion of the proposed private access road. City code requires a minimum of two off-street parking stalls per residential unit. *POMC 16.45.250*. Each proposed unit would feature a two-car garage with additional driveway parking for two cars. *Exhibit 23, Staff Report, page 6; Exhibit 24.*
13. John Laufenberg, for Wetland Resources, Inc. (WRI), prepared a Wetland Report, Wetland Mitigation Plan, and Habitat Management Plan on behalf of the Applicant. The report is dated March 30, 2005, and was part of the initial development proposal for the now-existing medical office and retail buildings. Six wetlands were delineated on the property at that time. The Applicant mitigated impacts to the wetland buffers through buffer enhancement and restoration. WRI reviewed the wetland boundaries as part of the Sedgwick Residential Project in a letter dated May 19, 2010. WRI determined that no significant wetland boundary changes have occurred. The proposed residential structures would be setback 15 feet from the wetland buffer edges, as required by City code. The proposed residential development would not create any new direct wetland or buffer impacts. *Exhibit 2.H.*
14. The Applicant prepared a Conceptual Drainage Analysis dated June 4, 2010. All stormwater runoff from the site ultimately discharges into Ruby Creek, which flows into Blackjack Creek. Both are identified as salmon-bearing streams, requiring all runoff to receive enhanced treatment. A common storm drainage discharge main was constructed with previous phases of development, flowing north and discharging in the northern portion of the property. Runoff from roof areas, driveway areas, and road in the southwest portion of the residential development would be collected in catch basins and conveyed to a detention pond before being discharged into a wetvault for enhanced water quality treatment. Runoff from the roof areas, driveways, access road, and the future medical building and parking areas in the northeast portion of the residential development would be collected in catch basins, conveyed to an underground detention vault, and then discharge into a wetvault for treatment. The Applicant testified that the dual treatment using wetvault and media filtration is intended to comply with the new Department of Ecology standards for stormwater run-off. *Exhibit 2.G; Testimony of Mr. Jorgenson.*
15. Mr. Jorgenson testified that there is sufficient pervious surface area to allow direct dispersal from lawn and landscaped areas. Runoff from landscaped and lawn areas

would be collected into area drains and then discharged through dispersion trenches into the bordering wetlands. The runoff to be directly dispersed would pass through 50 to 100 feet of native vegetation prior to discharge into the wetlands, exceeding the minimum 25 feet of vegetation required by the state Department of Ecology. Temporary erosion and sediment control plans would be included in the final storm drainage design plans. *Exhibit 2.G, pages 5 – 8, 14; Testimony of Mr. Jorgenson.*

16. An existing ditch transects the proposed residential development area, east of the proposed detention pond. The Applicant testified that the ditch features a pipe installed with initial development. The ditch carries stormwater run-off from SW Sedgwick Road to the wetland buffers in the northern portion of the property. Development of the proposed residences would entail relocating a section of the ditch. The wetland report states that relocation of the ditch is necessary for development to occur while still allowing the ditch to carry stormwater run-off. The Applicant would install a culvert under the proposed access road. The Applicant requested a Hydraulics Project Approval (HPA) from the state Department of Fish and Wildlife for the proposed ditch relocation. WDFW has not yet approved the HPA. *Exhibit 2.H, page 9; Exhibit 2.J; Exhibit 23, Staff Report, page 2; Exhibit 24; Testimony of Mr. Jorgenson.*
17. Dean Cooper wrote a letter to the City dated July 28, 2010, expressing concern that the proposed development would increase stormwater runoff onto his property. Mr. Cooper's property is adjacent to the south of the proposed residential development. Mr. Jorgenson responded that stormwater drainage flows to the north, away from Mr. Cooper's property. Groundwater also flows to the north, and would not impact Mr. Cooper's property. Mr. Jorgenson testified that the stormwater drainage systems would be developed to old growth forest site conditions, and would include large underground detention. *Exhibit 15; Testimony of Mr. Jorgenson.*
18. The City Staff Report states that the Applicant submitted a draft architectural landscape plan with the application. The City reviewed the plan and generally supports its provisions. A final landscape plan would be required prior to approval of a site development permit. *Exhibit 23, Staff report, page 7.*
19. Mr. Jorgenson testified that the duplexes would feature a common area to be maintained by the Home Owners Association (HOA). The Applicant would provide a 2,000-square foot play area at the southwest end of the private access road. The park would be owned and maintained by the HOA. *Exhibit 23, page 9; Exhibit 24; Testimony of Mr. Jorgenson.*
20. Chapter 16.55 POMC provides recommended design guidelines for development of commercial projects. However, the City Staff Report notes that the guidelines are not mandatory, and cannot and should not be inflexibly applied to every development project. The existing commercial development would buffer the proposed residential

development from the adjacent public streets. The Project Narrative states that the visual seclusion from the major roads would not be desirable for a commercial development, but is desirable in a residential development. The proposed residential structures and landscaping would be designed to complement the existing mixed-use development. The residential structures would be generally oriented towards the wetland buffer areas to the west and north to provide the units with an open rural feel. Mr. Desmarteau testified that the site was always intended to include a residential development. He opined that the proposed residential development would 'fit' with the existing commercial area. *Exhibit 2.F; Exhibit 23, Staff Report, pages 3 – 7; Exhibit 24; Testimony of Mr. Desmarteau.*

21. The City would provide water and sewer service to the proposed residential development. Off-site improvements and the installation of adequate system improvements would be required to facilitate the service of the proposed project. *Exhibit 9; Exhibit 23, Staff Report, page 10.*
22. The South Kitsap Fire and Rescue's Prevention Office reviewed the Applicant's plans and proposed conditions requiring the installation of residential sprinkler systems in each building, a demonstration that adequate water flow would be available from fire hydrants, and the installation of a fire department access road before the commencement of construction. *Exhibit 6.*
23. Mr. Bonsell testified that Sidney Glenn Elementary School is located approximately 1 mile to the north of the development. School bus stops would likely be located along Sidney Road SW. *Testimony of Mr. Bonsell.*
24. In its Staff Report, the Planning Department determined that, with conditions, the proposal would be consistent with the Comprehensive Plan, the Municipal Code and other applicable City regulations. The Department recommended approval of the CUP with conditions. *Exhibit 23, Staff Report, page 8.*

CONCLUSIONS

Jurisdiction

The City of Port Orchard Hearing Examiner is authorized to hold a hearing on the conditional use permit application. Based on the evidence in the record, the Hearing Examiner may grant, grant with conditions, or deny the application. *Port Orchard Municipal Code (POMC) 2.76.080; POMC 2.76.100; POMC 2.76.110; POMC 16.01.021(3).*

Criteria for Review

A conditional use permit shall be granted only if the applicant demonstrates that the proposed use:

- (a) Will be designed in a manner which is compatible with the character and appearance with the existing, or proposed development in the vicinity of the subject property;

- (b) Will not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties due to the location, size, and height of buildings, structures, walls and fences, and screening vegetation of the proposed use;
- (c) Will be designed in a manner that is compatible with the physical characteristics of the subject property;
- (d) Will mitigate impacts in a manner equal to or greater than the standards of this code;
- (e) Will not conflict with the health and safety of the community;
- (f) Will not create pedestrian and vehicular traffic that will be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
- (g) Will provide adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

POMC 16.35.010(3).

In addition, RCW 36.70B.040 requires consistency with City development regulations or the appropriate elements of the comprehensive plan, considering:

- a. The type of land use;
- b. The level of development, such as units per acre or other measures of density;
- c. Infrastructure, including public facilities and services needed to serve the development; and
- d. The characteristics of the development, such as development standards.

RCW 36.70B.040.

Conclusions Based on Findings

1. **The proposed project would be designed in a manner compatible with the character and appearance with the existing or proposed development in the vicinity of the subject property.** The existing commercial development was intended to include the proposed residential development. The Applicant designed the residential development to complement the existing and future commercial development. The existing commercial development will buffer the residential use from Sydney Road SW and SW Sedgwick Road. *Findings 8 and 20.*
2. **The proposed project would not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties.** Access to the proposed residential development would be provided through the existing commercial development. No traffic mitigation is required. Development of the proposed use would provide a pedestrian nature trail and pedestrian connection to the existing commercial areas. The proposed development is not connected to adjacent property developments, and would not interfere with other developments. *Findings 6, 10 – 12.*
3. **The design is compatible with the physical characteristics of the subject property.** The property is generally flat. The proposed development would not impact wetlands and associated buffers located west and north of the proposed residential area. Adequate

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parking would be provided to accommodate the needs of the residential units. The City reviewed a draft landscape plan, prepared by the Applicant, and generally supports the proposed design. A pedestrian trail along the bordering wetlands will accompany the development, as will a park. *Findings 8 – 10, 12, 13, 19, 20.*

4. **With conditions, impacts would be mitigated in a manner equal to or greater than the standards of the City code.** The City reviewed the Applicant's environmental checklist and issued an MDNS with conditions that are included with this decision. A TIA was prepared and no traffic mitigation for increased traffic is necessary. The Applicant would provide adequate parking spaces. The City has reviewed the draft landscape plan provided by the Applicant. Conditions are necessary to ensure that the proposal conforms to the most recent copy of the City's Developers Handbook; that a Site Development Activity Permit be obtained prior to construction; that off-site water and sewer improvements are completed; that stormwater control and treatment meets the newer and more stringent standards set forth by the Department of Ecology; and that pedestrian safety measures meet standards set in the City Developer's Handbook. *Findings 3 – 24.*
5. **With conditions, there would be no conflict with the health and safety of the community.** The City provided adequate public notice of the CUP application and associated open record hearing. The proposal is allowed with a conditional use permit in the Co zone and is not expected to affect health or safety of surrounding land uses. The South Kitsap Fire & Rescue reviewed the proposal and provided recommended conditions of approval. The City would provide water and sewage connections. Conditions are necessary to ensure that the proposal conform to the most recent copy of the City's Developers Handbook; that a Site Development Activity Permit be obtained prior to construction; that off-site water and sewer improvements are completed; that stormwater control and treatment meet the newer and more stringent requirements set forth by the Department of Ecology; and that a sidewalk is installed for pedestrian safety. *Findings 1 – 24.*
6. **With conditions, there would be no pedestrian and vehicular traffic that would be hazardous or conflict with existing and anticipated traffic in the neighborhood.** A TIA concluded that no traffic mitigation for increased traffic is needed. The Applicant modified the proposed ingress/egress to feature three traffic lanes, to improve traffic flow to the private access road. Conditions of approval are necessary to ensure that the Applicant provides a sidewalk along a portion of the private road and provides pedestrian connections to the commercial development. *Findings 10 – 12.*
7. **With conditions, the proposed project would provide adequate public facilities or services and would not adversely affect public services to the surrounding area.** The South Kitsap Fire & Rescue reviewed the proposal and recommended conditions of approval. The City would provide water and sewage connections to the residential

development. The City Public Works department provided comments on the proposal. Conditions are necessary to ensure that the proposed use conforms to the most recent copy of the City's Developers Handbook; that a Site Development Activity Permit is obtained prior to construction; that off-site water and sewer improvements are completed; and that stormwater control and treatment meets the newer and more stringent Department of Ecology guidelines. *Findings 14 – 16, 19, 21, 22, 24.*

- 8. With conditions of approval, the proposed project would be consistent with City development standards, as required by RCW 36.70B.040.** The proposed project would be consistent with the Commercial Comprehensive Plan designation. The project design, including parking, can be accommodated on the site and the level of development is appropriate. Infrastructure, including water and sewer, is available. Development standards would be met. Conditions are necessary to ensure that the proposal conform to the most recent copy of the City's Developers Handbook; that a Site Development Activity Permit is obtained prior to construction; that off-site water and sewer improvements are completed; that stormwater quantity, control, quality treatment, and erosion and sedimentation control be designed as set out in the City's Developer's Handbook. *Findings 1 – 24.*

DECISION

Based on the above findings and conclusions, the request for a conditional use permit to construct 13 residential duplex structures on 3.7 acres located at the northwest corner of Sidney Road SW and SW Sedgwick Road, in Port Orchard, Washington is **GRANTED**, subject to the following conditions:⁴

A. SEPA MITIGATION CONDITIONS

1. Update required Storm Drainage Analysis and Traffic Study at submittal of SDAP application.
2. In conjunction with the 2009 Comprehensive Sanitary Sewer Plan Update, sanitary sewer service is available to your parcel(s) with the provision that off-site improvements shall be required to facilitate the service of your proposed project. Please note that the installation of adequate system improvements to serve the aforementioned parcel(s), or a proportionate share of these improvements, will be required as part of the entitlement process. The determination of your project's impact to the sanitary sewer system and consistency with the proposed capital facility plan is best determined via review by BHC Consulting Engineers, Inc. The cost of this review service is to be provided by the project proponent.
3. In conjunction with the 2009 Water System Plan, water service is available to your parcel(s) with the provision that off-site improvements shall be required to facilitate the service of your proposed project. Please note that the installation of adequate system improvements to serve the aforementioned parcel(s), or a proportionate share of these improvements, will be required as part of

⁴ This decision includes conditions required to reduce project impacts as well as conditions required to meet City Code standards.

the entitlement process for any project on these parcels. The determination of your project's impact to the water system and consistency with the proposed capital facility plan is best determined via review by PACE Engineers. The cost of this review service is to be provided by the project proponent.

4. This project includes the construction of a detention vault, which requires a building permit issued by the Department of Community Development. A Structural Engineer, registered in the State of Washington, shall prepare the construction drawings. In addition, a geotechnical engineering analysis of the vault design is required. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.
5. The owner or homeowners association (HOA) shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant Associated with Maintenance and Operation of Storm Drainage Facilities that guarantees the City that the system will be properly maintained. Wording must be included in the covenant that will allow the City to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner or HOA and giving him/them a reasonable time to do the necessary work. Should City forces be required to do the work, the owner or HOA will be billed at the current City rates.
6. A copy of the reciprocal easement and/or amended air space condominium documents providing for ingress/ingress to the proposed housing project over/across the air space unit located west of and adjacent to the future restaurant site will need to be provided prior to issuance of SDAP. Submit a Geotechnical Report to include, but not limited to soil compaction, fill and rockeries.
7. As preliminarily depicted on Map A1.1, received and stamped July 9, 2010, a minimum 3 foot wide nature walking trail shall be constructed adjacent to the wetlands and creek, and may meander into or through the associated buffers. The trail must be extended to provide at a minimum of two ends clear connections with proposed or existing paved pedestrian circulation facilities, and must provide clear pedestrian access to the Public Right-of-Way. Trail design and specifications shall be included on final landscape plans submitted for approval prior to SDAP issuance.
8. As depicted on Map A1.1, received and stamped July 9, 2010, a 2,000 square foot pocket park shall be constructed with an appropriate play structure, specified and depicted on final landscape plans submitted for approval prior to SDAP issuance. Pocket Park and play structure shall be owned and maintained by Home Owners Association (HOA).
9. The applicant shall provide documentation of the approved JARPA permit from the Department of Fish and Wildlife, prior to issuance of SDAP.
10. In order to insure pedestrian safety, a minimum 5' wide sidewalk or separated hardscape (asphalt, pavers, etc.) pedestrian path shall be constructed on one side of the proposed residential access drive

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with associated ADA access facilities. All pedestrian access and nature trail facilities shall be made available for public access.

11. Redesign of the ingress/egress to the proposed housing project over/across the air space unit located west of and adjacent to the future restaurant site is required. Either full movement channelization aligned with existing channelization is required to accommodate traffic impacts associated with the proposed housing development, or a secondary vehicular access must be provided.
12. Adequate parking and vehicular access must be provided to units 18 and 19, and final plans may require reorientation or modification of the building footprint for units 17 & 18 and/or units 19 & 20, demonstrating such access prior to issuance of SDAP.

B. PLANNING CONDITIONS

1. Prior to commencing any construction activities the applicant is required to obtain a Site Development Application Permit (SDAP) or a grading permit. In addition, the applicant must obtain a building permit prior to commencement of any building activities.
2. The required SDAP/Grading plan shall include a landscape plan in conformance with POMC Chapter 16.50. The applicant is required to post a two-year performance bond including provisions for irrigation bonding.
3. No residential parking shall be allowed in the street right-of-way.

C. PUBLIC WORKS/ENGINEERING CONDITIONS

General

1. All of the development shall conform to the most recent copy of the City of Port Orchard's Developers Handbook at the time of complete application.
2. Following land use approval, a Site Development Activity Permit (SDAP) will be required prior to construction activities. Submit seven (7) copies of plans with SDAP Application.
3. Provide a copy of all compaction and materials testing reports to the Assistant Engineer upon completion and before the Certificate of Occupancy will be issued.
4. Applicant shall submit two sets of as-built blueprints and one electronic media copy at the end of the project.
5. Prior to approval of the construction plans, all off-site easements must be recorded and submitted to the City.

Water

6. Prior to approval of the construction plans, all off-site easements must be recorded and submitted to the City.
7. Copy of the report/review from PACE Engineers shall be submitted with the Site Development Activity Permit (SDAP) Application.

Sewer

8. All sanitary sewer system improvements shall comply with City of Port Orchard Standards. Provide testing for sewer to the building per the Developer's Handbook.
9. Copy of the report/review from BHC Consulting Engineering, Inc. shall be submitted with the Site Development Activity Permit (SDAP) Application.

Stormwater

10. Please note that Stormwater Permits are only good for three years from issuance per City of Port Orchard Municipal Code 15.32.030(5)(c):
A stormwater management permit shall, at the time of its issuance, specify a maximum expiration date, not to exceed three years from the date of issuance. A stormwater management permit shall expire upon approved completion of construction, or upon the specified maximum expiration date, whichever comes first. In the event that a stormwater management permit expires prior to the completion of construction, all construction activity must cease, a new stormwater management permit application must be submitted, and the issuance of a new stormwater management permit shall be, at the discretion of the director, subject to city site development standards in force at the time of the new permit application.
11. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with the approved City of Port Orchard Stormwater Manual. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with City of Port Orchard Ordinances in effect at the time of application.
12. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements as identified within the downstream capacity analysis. Procurement of any permits and/or easements necessary to install said off-site improvements shall be the responsibility of the project proponent. As indicated above, prior to approval of the construction plat, all easements must be recorded and submitted to the City.
13. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Josh Klimek at 360-407-7451, email jokl461@ecy.wa.gov. This permit is required prior to issuance of any construction permits.


Traffic and Roads

14. Construction of handicap access facilities within existing or proposed City right-of-way shall conform to the requirements of the Americans with Disabilities Act.
15. The sight distance shall meet the requirements of the City of Port Orchard Road Standards. The sight distance certification shall also note necessary measures to correct and maintain the minimum sight triangle.
16. Any work within the City right-of-way shall require a permit to perform work on City right-of-way and possibly a maintenance or performance bond. This application to perform work in the right-of-

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way shall be submitted separately. The need for and scope of bonding will be determined at that time.

Decided this 1st day of September 2010.


THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center