BEFORE THE HEARING EXAMINER FOR THE CITY OF PORT ORCHARD

In the Matter of the Application of THOMAS BARGHAUSEN, on behalf of Feigley Road Partners, LLC For a Major Plat Amendment

No. SUBDIV 10-03

McCormick Meadows aka McCormick North Phase II Plat

FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The Hearing Examiner APPROVES the request for a major plat amendment to modify the approved McCormick North Phase II Plat\(^1\) by reducing the proposed number of lots; increasing average lot size; relocating the main plat access; eliminating all alleys; increasing lot width; eliminating 400 feet of roadway around the Tract C wetland; consolidating park and open space; and increasing wetland buffer on property located on the northwest side of Old Feigley Road at its intersection with Lone Bear Drive, in Port Orchard, Washington. Conditions of approval are necessary to mitigate specific project impacts.

SUMMARY OF RECORD

Request:
Thomas Barghausen, on behalf of Feigley Road Partners, LLC requests a major plat amendment to modify the approved McCormick North Phase II Plat by reducing the proposed number of lots; increasing average lot size; relocating the main plat access; eliminating all alleys; increasing lot width; eliminating 400 feet of roadway around the Tract C wetland; consolidating park and open space; and increasing wetland buffer. As part of the plat amendment request, the Applicant proposes to rename the plat “McCormick Meadows.” The property subject to the request is located on the northwest side of Old Feigley Road at its intersection with Lone Bear Drive, in Port Orchard, Washington.

Hearing Date:
The Hearing Examiner held an open record hearing on the request on February 3, 2011.

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

\(^1\) The Applicant prefers the name “McCormick Meadows” to refer to the plat. The Hearing Examiner grants the name change as part of the request for a plat amendment. Exhibit 19.

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Tom Bonsell, City Planner
Mark Dorsey, City Engineer
Thomas Barghausen, P.E., Applicant Representative
Timothy Miller
Sandra Miller

Exhibits:
The following exhibits were admitted into the record:

1. Documents from pre-submittal meeting held on October 25, 2010, including the following:
   A. Narrative letter regarding proposed plat layout revisions, dated October 25, 2010
   B. Site plan with proposed changes to McCormick North Phase II plat, dated October 20, 2010
   C. Preliminary Plat site plan as approved by Kitsap County, dated March 30, 2005

2. Application submittal, including the following:
   A. Application for Plat Amendment, dated November 15, 2010
   B. Contact information, dated November 15, 2010
   C. Cover letter from G. Wayne Potter, dated November 16, 2010
   D. Project Narrative, received November 16, 2010
   E. Legal Description and list of Tax Parcel Numbers, received November 16, 2010
   F. Signed Property Owners List Verification, list of surrounding property owners, and map, dated November 15, 2010
   G. SEPA Environmental Checklist, dated November 16, 2010
   H. Preliminary Storm Drainage Report, dated November 12, 2010
   I. Preliminary Plat Amendment and Wetland Buffer Averaging Plans (2 sheets), dated October 20, 2010
   J. Preliminary Landscape Plan, dated November 16, 2010
   K. Preliminary Site Plans (11 sheets), dated November 11, 2010
      1) Site and Phasing Plan
      2) Storm and Grading Plan (North)
      3) Storm and Grading Plan (South)
      4) Road A Plan and Profile
      5) Road B Plan and Profile
      6) Road C Plan and Profile
      7) Road D and E Plan and Profile
      8) Road F Plan and Profile
      9) Lone Bear Drive Plan, Profile, and Section
      10) Utility Plan (North)
      11) Utility Plan (South)
   L. County approved Preliminary Plat Drawing, dated December 9, 2005

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3. Application Transmittal to Planning, Engineering, and South Kitsap Fire & Rescue, dated November 22, 2010
4. Application Transmittal to Public Works, dated November 30, 2010
5. Comments from South Kitsap Fire & Rescue, Greg Rogers, Fire Prevention Manager, dated November 24, 2010
6. Comments from City Assistant Engineer Andrea Archer, dated November 30, 2010
7. Letter to Wayne Potter from Associate Planner Tom Bonsell Re: Determination of Completeness, dated November 30, 2010
8. Notice of Complete Application sent to Wayne Potter by Tom Bonsell, dated November 30, 2010
9. Notice of Application and SEPA Threshold Determination, dated December 10, 2010
10. Distribution List for Environmental Review with Attachments, dated December 10, 2010
11. Affidavit of Publication, dated December 10, 2010
12. Affidavit of Mailing & Posting, dated December 10, 2010
13. Index to the Record for Preliminary Plat, as processed by Kitsap County Department of Community Development (prior to annexation), dated July 11, 2006
14. Notice of Application – Preliminary SEPA Determination for McCormick North Preliminary Plat, as processed by Kitsap County Department of Community Development (prior to annexation), dated February 16, 2006
15. Staff Report and Recommendation to the Hearing Examiner Revised for McCormick North Phase II Preliminary Plat, as processed by Kitsap County Department of Community Development (prior to annexation), dated April 12, 2006
16. Hearing Examiner for Kitsap County Findings, Conclusions and Decision for McCormick North Phase II Preliminary Plat, dated April 28, 2006
17. Appeal of Hearing Examiner Decision for McCormick North Phase II Preliminary Plat, as filed by McCormick Land Co. for GEM1 LLC, dated May 11, 2006
18. Kitsap County Department of Community Development Guidance on Major and Minor Approved Preliminary Plat Amendments, dated July 1, 2010
19. Letter from G. Wayne Potter, Vice President, Feigley Road Partners LLC, regarding a request for name change for the McCormick North Phase II Plat to McCormick Meadows, dated January 3, 2011
20. Excerpt from Kitsap County Commissioners minutes of the closed record public hearing of an appeal filed by McCormick Land Co./GEM1 LLC of Hearing Examiner’s decision for McCormick North Phase II Preliminary Plat Condition #22, dated August 28, 2006
22. Determination of Nonsignificance (DNS) for McCormick Meadows (aka McCormick North Phase II), dated January 5, 2011
26. Staff Report, prepared for February 3, 2011 hearing

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27. Letter from Tom Barghausen to Tom Bonsell regarding review of conditions of approval recommended for McCormick Meadows, dated January 31, 2011
28. Matrix of conditions listed in the letter from Tom Barghausen dated 1/31/11 (Exhibit 27) with City’s recommended solution, dated February 3, 2011
29. E-mail from Greg Rogers, SKFR, Fire Prevention Manager, addressing Condition 1, dated January 31, 2011
30. Letter from Public Works Director Mark Dorsey to Kitsap County Health District, regarding sewer availability for the McCormick Meadows Plat, dated January 27, 2011

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

**FINDINGS**

1. Thomas Barghausen, on behalf of Feigley Road Partners, LLC (Applicant) requests a major plat amendment to modify the approved McCormick North Phase II Plat by reducing the proposed number of lots; increasing average lot size; relocating the main plat access; eliminating all alleys; increasing lot width; eliminating 400 feet of roadway around the Tract C wetland; consolidating park and open space; and increasing wetland buffer. The Applicant also requests that the plat be renamed “McCormick Meadows.” The property subject to the request is located on the northwest side of Old Feigley Road at its intersection with Lone Bear Drive, in Port Orchard, Washington. City Planner Tom Bonsell testified that even though the proposal provides a better design, the City considers the proposed plat amendment as a “major” plat amendment because it is appropriate to open the review process to public participation. *Exhibit 1.A – 1.C; Exhibit 2.A, 2.D, 2.E, 2.K; Exhibit 19; Exhibit 26, Staff Report, page 1; Testimony of Mr. Bonsell.*

2. The City of Port Orchard (City) received the major plat amendment application on November 16, 2010. The City determined that the application was complete on November 30, 2010. The City provided notice of the application on December 10, 2010 by publishing notice in the *Port Orchard Independent*; mailing notice to owners of surrounding properties, and posting notice on the subject property. *Exhibit 9; Exhibit 10; Exhibit 11; Exhibit 12.* On January 21, 2011, the City provided notice of the open record hearing associated with the application by publishing notice in the *Port Orchard Independent*; mailing notice to surrounding property owners; and posting notice on the property. *Exhibit 23; Exhibit 24; Exhibit 25.*

3. The City acted as lead agency to analyze the environmental impacts of the proposed preliminary plat, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City reviewed the environmental

checklist submitted by the Applicant for the major plat amendment and incorporated environmental documents approved and adopted by Kitsap County relevant to the McCormick North Phase II preliminary plat. The City determined that the proposed plat amendment would not result in a probable significant adverse impact on the environment. The City issued a Determination of Nonsignificance (DNS) on January 5, 2011. No appeal of the DNS was received prior to the appeal deadline of January 19, 2011. Exhibit 22; Exhibit 26, Staff Report, page 5.

4. The property is zoned R8 (8 dwelling units per acre) and is designated Residential Medium Density by the City Comprehensive Plan, as is adjacent property to the south. Adjacent properties to the east and west are zoned one dwelling unit per acre, and designated Urban Reserve. Adjacent property to the north is zoned R4.5 and designated Residential Low Density. Surrounding property to the north, east, and west is developed with single-family residences. Property to the south is undeveloped. Exhibit 2.A; Exhibit 26, Staff Report, page 2.

5. The original plat was reviewed for conformance with the Kitsap County Comprehensive Plan in effect at the time of preliminary plat approval. The proposed plat amendment would retain the conditions of approval included with the original preliminary plat, with revisions as appropriate to ensure compliance with City code requirements. Kitsap County Comprehensive Plan goals and policies encourage new growth to provide a variety of housing types within designated Urban Growth Areas, with public services and capital facilities to support planned growth. The South Kitsap UGA/ULID #6 Sub-Area Plan also contains goals and policies relevant to the proposal. The Sub-Area Plan ensures that capital facilities and levels of service do not fall below adopted standards and promote planned, livable communities. Exhibit 15; Exhibit 26, Staff Report, page 4.

6. The purpose of the R8 zone is to (a) define areas that allow a greater dwelling unit density – particularly in locations that are well served by the arterial circulation system and community facilities in general; (b) implement comprehensive plan goals and policies for housing quality, diversity, and affordability; and (c) efficiently use residential land, public services, and energy. Port Orchard Municipal Code (POMC) 16.13.130(1). These purposes are accomplished by (a) providing for a mix of single-family detached housing arrangements and attached housing types; (b) allowing only those accessory and

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3 The McCormick Meadows plat is located within the area subject to the Final Supplemental Environmental Impact Statement for UGA/ULID #6, issued on January 9, 2002. The area was annexed to the City of Port Orchard under Ordinance No. 011-09, effective July 7, 2009. With annexation, the City adopted the UGA/ULID #6 Sub-area Plan and EIS. Exhibit 2.G; Exhibit 26, Staff Report, page 5.

4 The County identified the following goals and policies as particularly relevant to the preliminary plat: County Comprehensive Plan Goals – Residential 1, 2, and 3; South Kitsap UGA/ULID #6 Sub-Area Plan Goals 1, 2, 4, 5, and 6, and Policies 1.3, 2.3, 2.5, 2.7, 2.8, 4.4, and 6.1. Exhibit 15, pages 5 – 8.

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complementary nonresidential uses that are compatible with higher density single-family residential communities. *POMC 16.13.130(2).*

7. The initial preliminary plat was reviewed for compliance with the Kitsap County Comprehensive Plan, zoning code, Master Plan Development Standards, and development regulations in effect at that time. The plat was also reviewed for compliance with the South Kitsap County UGA/ULID #6 Sub-Area plan. In reviewing the present plat amendment, the City of Port Orchard applied the Kitsap County regulations in effect at the time of preliminary plat approval. *Exhibit 15; Exhibit 16; Exhibit 26, Staff Report, page 3.*

8. Kitsap County approved the Kitsap UGA/ULID #6 sub-area plan for the McCormick Woods area in December of 2003. The City adopted this sub-area plan by reference as part of the 2009 City Comprehensive Plan update. The initial preliminary plat was reviewed for compliance with the Sub-Area plan prior to approval. The Staff Report states that there are only minute differences between the current City zoning codes and the County zoning codes in effect at the time the preliminary plat was approved. The City proposed conditions of approval that recognize the vesting of the plat design, while accommodating City requirements for further processing. *Exhibit 15; Exhibit 16; Exhibit 26, Staff Report, pages 3, 4.*

9. The property is roughly triangular-shaped, extending north from the intersection of Lone Bear Drive and Feigley Road. The property is gently undulating, with slopes in the north and northwest portion of the property. The property features three Type III wetlands that have been set aside in critical areas tracts. Although undeveloped, the property was partially cleared under Kitsap County Site Development Activity Permit No. 04-18785 in preparation for storm detention facility construction. The forest canopy within the critical areas and open space tracts has been retained. Thomas Barghausen, P.E., Applicant Representative, testified that the stormwater system has already been installed consistent with the approved preliminary plat, some grading has occurred in addition to some stockpiling of building material on-site. *Exhibit 2.D; Exhibit 2.G; Exhibit 2.I; Exhibit 2.J; Exhibit 2.K; Exhibit 26, Staff Report, page 3; Testimony of Mr. Barghausen.*

10. The approved preliminary plat featured 185 lots; three steep slope and wetland tracts (A, B, and C); four active recreation tracts (D, I, J, and K); three alley tracts (F, G, and H); and a lift station tract (E). The preliminary plat as approved in 2006 provided 22.47 acres of open space, and 10.71 acres of road right-of-way. The proposed major plat amendment would reduce the total number of lots to 167, and would consolidate the

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5 The Project Narrative states that the proposal would reduce the number of lots from 177 to 167. *Exhibit 2.C, 2.D, 2.K.* The plat as initially approved in 2006 authorized 185 lots. *Exhibit 16.* The initially approved plat map, last dated revision of January 27, 2006, included 184 lots. *Exhibit 2.L.* Regardless of the initial number of lots, the

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proposed open space and recreation areas. With the major plat amendment, the Applicant proposes four open space and critical area tracts (A, B, C, G); a park tract (D); a pump station tract (E); a storm drainage tract (F); and an access tract (H). The plat amendment would increase the average lot size from 4,687 square feet to 5,538 square feet. The elimination of the initially proposed alleys and the elimination of a portion of the access road would decrease the impervious surface area. The Project Narrative states that the proposed consolidated park tract would provide more opportunity for larger recreation activities, with concrete trails, benches, tables, and a large play structure. The plat amendment would also relocate the main access to the plat to provide improved access and traffic movement. The City determined that the proposed plat amendments would exceed the threshold for minor amendments. *Exhibit 2.D; Exhibit 2.I; Exhibit 2.J; Exhibit 2.K; Exhibit 2.L; Exhibit 18; Exhibit 26, Staff Report, page 3.*

11. Lone Bear Drive runs along the southern boundary of the property. Feigley Road runs north/south at the southeast corner of the property. Hudson Drive extends east of the property at the southeast corner of the property. The preliminary plat as approved in 2006 provided the main plat entrance at the intersection of Feigley Road, Hudson Drive, and Lone Bear Drive. With the major plat amendment, the Applicant proposes relocating the main entrance 700 feet west of the intersection. The Applicant also proposes eliminating approximately 400 feet of road that had been proposed along the eastern edge of critical area Tract C. All interior plat roads would be constructed to Kitsap County standards, featuring two 10-foot wide drive lanes and an eight-foot wide parking lane, with five-foot wide sidewalks on both sides of the street. The plat roads would be publicly maintained and dedicated to the City of Port Orchard. No public transit currently serves the site. *Exhibit 2.G; Exhibit 2.K; Exhibit 26, Staff Report, pages 3, 5, 9.*

12. N.L. Olson and Associates, Inc. prepared a preliminary storm drainage report for the Applicant, dated November 2010. The report notes that the property is served by the regional stormwater facilities approved as part of the Feigley Road Re-Alignment and Lone Bear Drive Improvements project, built in 2005. The report references two drainage basins, Basin E2 and W2, as identified in the final storm report approved in March 2008. The report determines that the plat amendment would result in a decrease in impervious surface area. *Exhibit 2.H.*

13. According to the Kitsap County staff report, dated April 4, 2006, the proposed plat would utilize regional stormwater facilities issued under SDAP No. 04-18785. Runoff from impervious surfaces would be conveyed to the two separate facilities. The east wet pond/detention pond is located off-site to the east of the property. The West Fork wet pond and West Fork infiltration pond are located across Lone Bear Drive, south of the proposed plat amendment under review here would reduce the number of lots to 167. *Exhibit 26, Staff Report, page 1.*

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property. The Applicant would post a two-year maintenance bond for the stormwater facilities, after which time the City would take over maintenance and operation of the system. Exhibit 2.K; Exhibit 15; Exhibit 26, Staff Report, page 8.

14. The property was cleared with the preliminary plat approval, with the exception of forest canopy in critical areas and open space tracts. The elimination of up to 400 feet of roadway within critical areas Tract C would increase the overall amount of wetland buffer. The Applicant would utilize Kitsap County buffer averaging provisions, as approved with the initial 2006 preliminary plat, with all buffers a minimum of 35 feet wide. Conditions of approval require that the Applicant install a split rail wood fence or similar barrier between rear yards and critical area setback boundaries. Thomas Barghausen, Applicant Representative, requested that the condition be amended to provide flexibility allowing for a solid wood fence along side and rear yard boundaries. City Planner Tom Bonsell testified that permanent wood fencing, either split rail or other wood barrier, must be installed prior to certification of occupancy as approved by the Planning Department. Mr. Barghausen testified in agreement with the City’s proposed condition of approval. The Applicant submitted a preliminary landscape plan, dated November 16, 2010. Conditions of approval require the Applicant to provide landscaping and screening along the north side of Lone Bear Drive, design and landscape the developed park sites, and landscape or re-vegetate the cleared acreage of open space adjacent to critical area buffers. Exhibit 2.D; Exhibit 2.J; Exhibit 26, Staff Report, pages 3, 5, 7; Exhibit 27; Exhibit 28; Testimony of Mr. Bonsell; Testimony of Mr. Barghausen.

15. The City of Bremerton would provide water service to the plat. Mark Dorsey, P.E., sent a letter to the Kitsap County Health District, dated January 27, 2011, confirming that the City of Port Orchard would provide sewer service to the McCormick Meadows plat. Puget Sound Energy would provide electric service to the property; Cascade Natural Gas would provide gas service. Mr. Barghausen requested in a letter to the City that the language of proposed Condition No. 8 be revised to clarify when the City of Port Orchard would take over maintenance for the sanitary sewer lift station. The City agreed to the proposed change. Exhibit 26, Staff Report, page 2; Exhibit 27; Exhibit 28; Exhibit 30; Testimony of Mr. Barghausen.

16. The South Kitsap Fire & Rescue Prevention Office reviewed project plans received on November 22, 2010. Greg Rogers, Fire Prevention Manager, sent a memo to the City dated November 24, 2010, providing proposed conditions including minimum fire flow of 1,000 gallons per minute and access road requirements. In a letter dated January 31, 2011, Mr. Barghausen expressed concern that proposed conditions of approval increase the required fire flow from the County’s 500 gallons per minute requirement. Mr. Barghausen requested that the condition of approval maintain the original preliminary plat wording. In an email to Tom Bonsell, sent January 31, 2011, Mr. Rogers noted that the fire district is aware that the system serving the area would meet the 1,000 gallons a
minute fire flow. However, he explained that the final fire flow requirements are not determined for any building until the building permit phase. Fire flow is based on building size and type of construction. Both the City and County require this minimum fire flow. At the open record hearing, Mr. Barghausen testified that the Applicant would accept the City’s proposed condition because Mr. Rogers’ email confirms that 1,000 gpm fire flow is available. Exhibit 5; Exhibit 27; Exhibit 29; Testimony of Mr. Barghausen.

17. The Staff Report notes that the school district will construct a new school on property across Feigley Road from the proposed plat. City Planner Tom Bonsell testified that students in the area are all bused to schools. Bus stops would be located at McCormick Woods Phase III. The school district would coordinate with the Applicant to provide a bus stop at Feigley Road and Lone Bear Drive. Exhibit 26, Staff Report, page 3; Testimony of Mr. Bonsell.

18. Timothy Miller testified that he lives on Lone Bear Lane. He noted that more than 15 different individual bears have been observed on the subject property. Sandra Miller testified to ask the extent of pavement along Lone Bear Lane. Applicant Representative Mr. Barghausen responded the road would be improved with curb, gutter, and sidewalk. Mark Dorsey, City Engineer, testified that the City would maintain the road after construction. He explained that conditions of approval are necessary to ensure that stormwater facilities and road construction comply with City standards. Mr. Barghausen clarified that Lone Bear Lane construction will not be completed until Phase II of the amended plat. Testimony of Mr. Miller; Testimony of Ms. Miller; Testimony of Mr. Dorsey; Testimony of Mr. Barghausen.

19. City staff recommended approval of the proposed plat amendment with conditions of approval. The Applicant submitted a letter to the City, dated January 31, 2011, listing proposed revisions to specific conditions of approval. The City responded with a memorandum detailing the City’s response to each proposed change. The Applicant requested that a proposed condition of approval requiring that all conditions be recorded on the face of the final plat be deleted. Mr. Barghausen proposed that conditions be recorded on the face of the final plat only “to the extent determined appropriate by the City Planning Director.” Mr. Bonsell testified that the condition should be amended to refer to “applicable” conditions of approval. The Applicant Representative agreed to the revisions proposed by the City. Exhibit 26, Staff Report, page 6; Exhibit 27; Exhibit 28; Testimony of Mr. Barghausen; Testimony of Mr. Bonsell.

CONCLUSIONS

Jurisdiction

The City of Port Orchard Hearing Examiner has authority to conduct an open record hearing on a preliminary plat application, and to grant, modify and grant, or deny the application based on

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evidence in the record. *Port Orchard Municipal Code (POMC) 2.76.080; POMC 2.76.110; POMC 16.01.021(3).* Kitsap County submitted a guidance memorandum stating that major plat amendments are considered Type III applications that require a public hearing. *Exhibit 18.*

Criteria for Review
The City of Port Orchard provides criteria for approval of a preliminary plat, but does not specifically address plat amendments for other than short subdivisions. *See, POMC Chapter 16.72.* The Hearing Examiner thus reviews the proposed major plat amendment under the codes in effect at the time the preliminary plat was initially approved. Kitsap County guidance on major and minor approved preliminary plat amendments, dated July 1, 2010, provides that the Hearing Examiner shall inquire into the public use and interest proposed to be served by the amendment of the subdivision and dedication. A proposed major amendment shall not be approved unless the Hearing Examiner makes written findings supporting such decision. The Hearing Examiner has the authority to approve or deny any proposed major amendment and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan, applicable community or subarea plans, design standards / guidelines and other applicable County codes and state laws. *Exhibit 18.*

In addition, RCW 58.17.110(1) provides that a proposed subdivision shall not be approved unless appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and the public interest will be served by the platting of such subdivision and dedication.

Finally, 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

1. **With conditions, the proposed major plat amendment complies with Kitsap County zoning code and development regulations in effect at the time the preliminary plat was approved.** The McCormick North Phase II plat was approved for development of 185 residential lots by the Kitsap County Hearing Examiner on April 28, 2006. The Kitsap County Hearing Examiner reviewed the proposed plat for compliance with County zoning code and development regulations. The proposed plat amendment under review...
now would reduce the number of lots, decrease impervious surface area, improve the plat access, and increase wetland buffer area. City staff testified that the proposed plat amendment would result in a better plat design. The property contains critical areas, including slopes, wetlands, and buffers, that would be protected in open space tracts. The City reviewed the proposal for environmental impacts and determined that with the original conditions of approval, the proposed plat amendment would not result in probable significant adverse environmental impacts. Conditions of approval incorporate the County preliminary plat conditions of approval, with revisions to accommodate City requirements for further processing. *Findings 1 – 19.*

2. **With conditions, the proposed major plat amendment would comply with the approval criteria provided in RCW 58.17.110.** The proposed plat amendment features several open space tracts and critical areas tracts that would protect on-site wetlands, slopes, and buffers. The Applicant provided a landscaping plan. Regional stormwater facilities have been constructed off-site. The Applicant would provide water quality treatment as reviewed and approved with the initial preliminary plat. The Applicant would construct street improvements to Lone Bear Drive, and would construct internal plat roads to County standards, with curb, gutter, one parking lane, and sidewalks on both sides of the streets. Internal plat roads would be dedicated to the City of Port Orchard. Adequate parking would be provided with the proposed parking lanes. School buses would serve the proposed plat as amended, transporting students to neighboring schools. The school district would coordinate with the Applicant to locate bus stops. No public transit currently serves the area. Conditions of approval are necessary to ensure that critical areas and buffers are protected; that stormwater quantity control, quality treatment, and erosion and sedimentation control is designed to Kitsap County standards; and that plat roads and street improvements are constructed to County standards. *Findings 1 – 19.*

3. **With conditions, the proposed major plat amendment would comply with RCW 36.70B.040.** The proposed major plat amendment is generally consistent with Kitsap County Comprehensive Plan objectives and County development regulations, as reviewed and approved with the initial preliminary plat. Development of the proposed 167 single-family residential lots and associated tracts can be accommodated on the site. The level of development is appropriate: surrounding properties are similarly zoned and developed for single-family residential use. City staff testified that the proposed plat amendment would improve the plat design from that approved in 2006. Conditions of approval are necessary to ensure that critical areas and buffers are protected; that stormwater quantity control, quality treatment, and erosion and sedimentation control is designed to Kitsap County standards; and that plat roads and street improvements are constructed to County standards. *Findings 1 – 19.*
DECISION

Based on the above findings and conclusions, the request for a major plat amendment to modify the approved McCormick North Phase II Plat by reducing the proposed number of lots; increasing average lot size; relocating the main plat access; eliminating all alleys; increasing lot width; eliminating 400 feet of roadway around the Tract C wetland; consolidating park and open space; and increasing wetland buffer on property located on the northwest side of Old Feigley Road at its intersection with Lone Bear Drive, in Port Orchard, Washington, is APPROVED with the following conditions:

All conditions and mitigations as required by the preliminary plat of McCormick North Phase II, approved by Kitsap County Hearing Examiner Pro Tem on May 3, 2006 shall be conditions of this preliminary plat amendment (See Exhibit 16, and cited below) except as otherwise noted.

Conditions of Approval Specific to this Amended Preliminary Plat.

Fire

1. A minimum fire flow of 1,000 gallons per minute, measured at a residual pressure of 20 p.s.i., is required for one- and two-family dwellings not exceeding 3,600 gross square feet. All other buildings (including larger one- and two-family dwellings) require a minimum fire flow of 1,500 gallons per minute and may require more depending on building size and type of construction as per the City of Port Orchard Fire Code.

2. Access roads shall be extended to within 150 feet of all portions of an exterior wall on all buildings or portions or buildings.

3. The unobstructed width of a fire apparatus access road shall not be less than 20 feet.

4. All dead-end apparatus access roads in excess of 150 feet in length shall be provided with approved provisions or the turning around of the fire apparatus.

5. The turning radius of a fire apparatus road shall be a minimum of 25 feet inside diameter.

6. Before construction may begin on any lot, fire department access must be provided. Access roads shall be provided for all structures more than 150 feet from a public access road. Access roads shall be a minimum of 20 feet in unobstructed width, be designed and maintained to support the imposed loads of fire apparatus (75,000 lbs) and must have a surface that provided all-weather driving capabilities.

Health

7. Water is to be provided by the City of Bremerton. A binding water availability letter is required prior to final plat approval. All water main extensions must be installed or bonded to 150% prior to final approval.

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6 Conditions include both legal requirements applicable to all developments and conditions to mitigate the specific impacts of this development.
8. Sanitary sewer is to be provided by City of Port Orchard. Upon completion of the proposed sanitary sewer lift station, the developer will be required to post a 2-year maintenance bond for the facility. The developer will be responsible for providing regular and adequate maintenance during the 2-year period and supportive maintenance records. At the later of two years following completion of the lift station, or upon the connection to the facility of at least 80 percent of the homes in Phase 1 of the subdivision, the City will inspect the facility. When the facility is acceptable, the City will take over maintenance and operation of the facility. Wording to this effect must appear on the plat and in the covenants before final recording of each phase.

9. A letter of Sewer Availability shall be provided to the Kitsap County Health District by the City of Port Orchard prior to SDAP approval.

Kitsap County Land Use

10. Wetland buffer areas shown within lot dimension shall not be cleared or graded. The wetland setback buffer edge will be established with a split-rail fence.

11. All applicable conditions of approval of the preliminary plat shall be recorded on the face of the final plat, to the extent determined appropriate by the City Planning Department.

12. A Forest Practice Application (FPA) permit shall be required from the DNR and a copy provided to the City of Port Orchard prior to any clearing, grubbing, grading or development activities.

13. Landscaping and screening shall be provided for the entire development consistent with KCC 17.428.070 and KCC 17.385. Specifically, to provide landscaping and screening along the north side of Lone Bear Avenue, design and landscaping of the developed park sites, and landscaping or re-vegetation of the cleared acreage of open space adjacent to critical area buffers.

14. The property owners shall create a homeowner's association that will ultimately be responsible for the maintenance of recreational open space facilities, critical area buffer fencing, perimeter and entry landscaping, and other activities associated with the infrastructure and support of a residential community.

15. A split rail wood fence or similar wood barrier shall be installed along the boundary of existing/proposed public streets and wetland Tracts A, B, and C, as well as between Tract D and rear lot lines of all lots that abut Tracts A, B, and C. Prior to commencement of grading or clearing activities, the fencing of the side and rear lot lines between the lots and the wetland Tracts A, B, and C respectively must be clearly marked with a NGPE/Construction fencing approved by the City of Port Orchard. NGPE/Construction fencing does not take the place of required silt fencing. Permanent wood fencing, split rail fencing, or wood barrier, must be installed prior to certificate of occupancy, as approved by the Planning Department.

16. A marked pedestrian crosswalk shall be installed at a point determined by the developer at Road B and Lone Bear Drive crossing Road B. These pedestrian crosswalks shall be
17. Artificial outdoor lighting shall be arranged so that the light is directed away from adjoining properties so that not more than one (1') foot candle of illumination leaves the property boundary.

18. Street Trees shall be provided in the front yards along both sides of all interior roadways, averaging one tree per lot. Trees will be 2.5-3" caliper and be medium to large canopy species.

19. Sidewalks shall be provided along both sides of interior roadways, as illustrated on Exhibit 2.K.

20. Trails within wetland buffers shall be located in the outer portion of the buffer and a minimum of 25 feet from the wetland edge, except where wetland crossings or viewing areas have been approved.

**Development Engineering**

These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans stamped received October 11, 2005 and re-submittal stamped received December 21, 2005 and April 11, 2006 to Kitsap County Development Engineering.

The City of Port Orchard Engineering Department accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of the land use approval:

**GENERAL**

21. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to City of Port Orchard for review and acceptance. No construction shall be started prior to said plan acceptance.

22. For purposes of the stormwater conveyance system, the Applicant shall comply with the requirements of the adopted SWM Manual, including the use of scheduled impervious area(%) relating to Residential Dwelling Units (SFR) / Gross Acre, set in Table 5-2 of the Manual.

23. Approval of the amended preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be altered for the final design to meet all requirements of Kitsap County Code Titles 11 and 12.

**STORMWATER**

24. The information provided demonstrates this proposal is a Major Development as defined in Kitsap County Code Title 12, and as such will require a Site Development Activity Permit (SDAP) from the City of Port Orchard Public Works Department.

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25. Stormwater quantity control, quality treatment, conveyance and erosion and sedimentation control have been or shall be designed in accordance with Kitsap County Code Title 12 or as amended at the time of SDAP application. 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 SDAP application.

26. Prior to connection to the regional stormwater management facilities, provide documentation that the facilities have been adequately maintained.

27. 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. This permit is required prior to issuance of the SDAP.

28. Upon completion of the storm drainage conveyance facilities, the developer will be required to post a two-year maintenance bond for the facility. The developer will be responsible for providing regular and adequate maintenance during this two-year period and supportive maintenance records. At the end of this time, the City will inspect the system and, when the facility is acceptable and 80% of the homes in that phase have been completed, the City will take over maintenance and operation of the system. Wording to this effect must appear on the plat and in the covenants before final recording of each phase. Areas proposed to be maintained by the City that are not in the right-of-way must be shown as a separate tracts or drainage easements with the City of Port Orchard being designated as the grantee.

29. The location of all inlet structures shall meet the requirements of KCSDM 7.8.5.

30. The proposed plat has more impervious area contributing to the stormwater facilities than what was allocated in the sizing analysis for SDAP 04-18785. Provide documentation that the built pond can handle the additional areas included in the proposed development.

TRAFFIC AND ROADS

31. Roads shall not exceed 12% grade.

32. The interior roads of the proposed plat shall be built to County standards and publicly maintained and the right-of-way dedicated to the City of Port Orchard as proposed.

33. All interior roads of the proposed plat shall be built to Kitsap County current standard roadway section for local access road or an approved higher standard.

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34. Vertical curves shall meet AASHTO sight distance requirements for a 25 mph posted speed.

35. The horizontal curves within the plat do not comply with the Kitsap County Road Standards. Revise to county standards or submit a City of Port Orchard Variance request from Resolution 1971. A City of Port Orchard Variance request shall be submitted for all roadway features that are not designed to Kitsap County Road Standards.

36. Horizontal curves for public roads shall have minimum centerline radii as outlined in the Kitsap County Road Standards unless a City of Port Orchard Variance Request from Resolution 1971 is granted.

37. Construction of handicap access facilities within existing or proposed right-of-way shall conform to the requirements of the Americans with Disabilities Act.

38. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.

39. The property owners (within the plat) shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat map (construction plans). In addition, the City of Port Orchard Engineering Department reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.

40. The approaches to Road A and Road B shall be designed in accordance with Kitsap County Road Standards and WSDOT Design Manual Figure 920-5, with minimum return radii of 35 feet. The approach grade shall not exceed 5% from the flow line to twenty feet beyond the right-of-way line. Note the design vehicle on the final plans.

41. Provide wheelchair ramps on both sides of the site approach. Include on the plan set curb ramp details that meet the requirements of the Americans with Disabilities Act per WSDOT Standard Plan F-3 cement concrete sidewalk and approach details.

42. Any required curb and gutter shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.

43. The developer’s engineer shall certify that there is adequate entering sight distance at the intersection of Lone Bear Drive and Road A and Lone Bear Drive and Road B. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The site distance shall meet the
requirements of the Kitsap County Road Standards. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.

**SURVEY**
44. The final plat map shall be prepared in compliance with RCW 58.17.

45. An additional 10 feet for utility easement shall be provided on each side of the roadway.

46. Protective Covenants, Conditions and Restrictions (CC&Rs) shall be established prior to final plat approval to ensure the perpetual maintenance of storm drainage facilities and common open space.

47. Ownership and maintenance of all tracts shall be addressed on the face of the plat as well as in the CC&Rs.

**SOLID WASTE**
48. Contact the solid waste service provider Waste Management at (360) 674-3166 for information on implementing the service provider's solid waste/recycling storage requirements for the proposed activity. Indicate method of waste disposal on the final plan.

Decided this 16th day of February 2011.

THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center