

1 **BEFORE THE HEARING EXAMINER FOR THE CITY OF OAK HARBOR**

2 Phil Olbrechts, Hearing Examiner

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<p>4 RE: Oak Heights</p> <p>5 Preliminary Plat & Planned Residential Development</p> <p>6 File # 2408-0047</p>	<p>7 FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION</p>
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8 **OVERVIEW**

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10 DR Horton requests approval of a Preliminary Plat and Planned Residential Development for 153 single-family lots and 66 duplex lots on 36.7 acres of land located at the southwest corner of SW 24th Avenue and State Route 20. The applications are approved subject to conditions.

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13 Several concerns were raised about increases in traffic. The traffic impacts are found to conform to City traffic standards. The Applicant prepared a traffic report demonstrating conformance to City adopted level of service (congestion) standards. These standards do not apply to SR 20, which is in the jurisdiction of the Washington State Department of Transportation (WSDOT). As testified during the hearing, the City intends to approach WSDOT to lower the SR 20 speed limit within the vicinity of the project site. A project condition of approval also requires channelization improvements to be made at the intersection of SR 20/SW 24th Ave. intersection and the SR 20/SW Eagle Vista Dr. intersection as approved by WSDOT. These improvements may include eliminating left turn movements at the SR 20/SW 24th Ave. intersection and the construction of a roundabout at the SR 20/SW Eagle Vista Ave. intersection.

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20 Other comments raised stormwater concerns. Water quality impacts are comprehensively addressed in the City's stormwater regulations, which adopt by reference the Western Washington Stormwater Manual. As required by state law, the Manual adopts all known, available and reasonable methods of stormwater prevention, control and treatment (AKART). See RCW 90.52.040 and RCW 90.48.010.

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23 Two comments referencing the same parcel brought up privacy concerns that will be mitigated through the application of PRD standards requiring a landscape buffer around the site.

1 A potential connection to undeveloped land adjacent to the site was noted. A condition of
2 approval requires the Applicant to confer with city staff to determine the viability of an
3 additional connection for a complete gridded street connection.

3 **ORAL TESTIMONY**

4 A computer-generated transcript of the hearing has been prepared to provide an
5 overview of the hearing testimony as Appendix A. The transcript is not intended to
6 provide a precisely accurate rendition of testimony but generally identifies the subjects
7 addressed during the hearing.

8 **EXHIBITS**

9 Exhibits 2 - 6 listed on page 1 of the staff report, were admitted into the record at the
10 March 27th, 2025, public hearing. During the hearing, the following items were
11 entered into the record as exhibits: Exhibit 1 – Statt Report; Exhibit 7 – Revised
12 Preliminary Plat Plans; Exhibit 8 – Traffic Report; Exhibit 9 – School Safe Walking
13 Conditions; and Exhibit 10 – March 27, 2025, email from Sarah Heller, City of Oak
14 Harbor identifying updated exhibit list and revised recommended conditions of
15 approval.

16 **FINDINGS OF FACT**

17 **Procedural:**

18 1. Applicant. The Applicant representative is Nicole Mecum, 11241 Slater
19 Avenue NE, Suite 200, Kirkland, WA 98033. The property owner is Oaks Village 135
20 LLC, PO Box 787, Anacortes, WA 98221.

21 2. Hearing. An hybrid hearing was held on the application on March 27, 2025
22 at 2:00 pm at Oak Harbor City Hall, Council Chambers. The hearing record was left
23 open through April 3, 2025 for additional public comment and Applicant/city response
24 and closed at that time.

25 **Substantive:**

3. Site/Proposal Description. DR Horton requests approval of a Preliminary Plat
and Planned Residential Development for 153 single-family lots and 66 duplex lots on
36.7 acres of land located at the southwest corner of SW 24th Avenue and State Route 20.
In the past, a duplex and single-family home existed on the site, but most development
has been cleared in anticipation of development. A previously approved Preliminary Plat
and PRD from 2019 have expired. The new property owner and developer have chosen
to redesign the project with new applications.

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2 The Applicant has applied for a PRD to vary the standards otherwise applicable to the
3 duplex lots of the project site. Departing from R1 setback standards, proposed PRD
4 setbacks for the duplex units will be a minimum of 5 feet on one side of the lot, zero on the
5 other side, and 10 feet on both front and rear. Driveway lengths will be required to be at
6 least 20 feet in length to allow for parking without impeding pedestrian or vehicular traffic.
7 Lot dimensions and building coverage are requested to be varied as well, allowing for 25-
8 foot-wide lots and 55% lot coverage. Additional landscaping is proposed in this portion of
9 the plat to break up large areas of hardscape.

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12 4. Characteristics of the Area.

	Existing Land Use	Zoning
North:	Mobile home park	City of Oak Harbor: R-3 and R-4
South:	Undeveloped land	Island County: “Oak Harbor – Residential”
East:	Single-family homes	City of Oak Harbor: R-1
West:	Single family subdivision under construction and undeveloped land	City of Oak Harbor: R-2 and Island County: “Oak Harbor – Residential”

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15 5. Adverse Impacts. The proposal will not create any significant adverse
16 impacts. A Mitigated Determination of Non-significance (MDNS) was issued for the
17 proposal on February 14, 2025. Pertinent impacts are addressed as follows:

18 A. Critical Areas. ‘The only critical areas identified at the project site are two
19 Category IV wetlands. The wetlands were delineated in a critical areas report
20 prepared by Wetland Resources Inc. for the Applicant. The Applicant will preserve
21 and protect those wetland areas by applying required wetland buffers and providing
22 proper stormwater treatment and drainage. There are no steep slopes or streams on
23 the project site.

24 B. Privacy. The proposal provides for adequate protection of privacy to surrounding
25 uses by adding perimeter landscaping.

On the eastern edge of the development along the SR 20 frontage, the Applicant shows a 20-foot landscape buffer as required by the OHMC and DRG document standards for the State Highway Heritage Way landscape plan. Additional landscaping exists beyond that space as well, providing a significantly larger buffer than required.

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Perimeter landscaping is provided in the form of a required buffer with trees spaced at 25 feet. This buffer shall be installed with the construction of the subdivision and not individually with single homes.

Native vegetation is provided per the standards of the OHMC and is concentrated in areas near the existing wetlands and walking paths. Other trees and landscaping are interspersed among the open space areas, with seating and other amenities provided. Landscaping in the public rights-of-way is shown per the standards of the OHMC.

6. Infrastructure. The proposal will be served by adequate and appropriate public infrastructure. Preliminary infrastructure design has already been evaluated by the City’s Public Works staff and found to be in compliance with City standards. Final design for streets, sidewalks, storm drainage facilities, and sewer mains will be required to meet the City’s development design standards during engineering review. The following more specifically addresses infrastructure and services:

- A. Water. Each lot within the subdivision will be connected to the City’s public water system, which meets state quality requirements. The City has planned for and can accommodate the growth in population on the subject site to serve it with potable water.
- B. Sewer. Each lot within the site will be served by the City’s sewer and solid waste services. The capacity to serve the proposed subdivision is accounted for in the City’s wastewater collection and treatment system.
- C. Transportation. As mitigated the proposal provides for adequate and appropriate on and off-site transportation facilities.

Traffic impacts are addressed in the City’s adopted level of service (LOS) standards. The Applicant prepared a traffic report to establish conformance to the City’s LOS standards. The report found that the proposal will not lower LOS on materially affected intersections below the LOS D adopted by the City as maximum acceptable intersection delay. As identified in the Overview of this decision, the Applicant and City will also be working with WSDOT on SR 20 improvements to mitigate against project impacts to SR 20 intersections.

The most severe traffic impact caused by the proposal will be to the intersection of SR 20/SW 24th Avenue. That intersection is forecast to operate at LOS F in the future without the proposal and the proposal will add to the delays of this congested intersection. To mitigate increased delay and improve accessibility to SR 20 for the project and surrounding area, improvements at two intersections will occur. The intersection improvements may include eliminating left turn movements at the intersection of SR 20/SW 24th Avenue and the construction of a compact roundabout at the intersection of SR 20/SW Eagle Vista Avenue. These improvements will alleviate operational issues that are anticipated to occur regardless of the project and will be completed jointly by the developer and the City of Oak Harbor. The specific design of

1 these improvements will occur through coordination with Oak Harbor and WSDOT.
2 Upon approval of the compact roundabout the developer shall commence construction
3 of the improvements. If approval of the plans/permit are unreasonably delayed,
4 Certificates of Occupancy shall be issued with an appropriate surety bond for the cost
5 of the compact roundabout provided by the Developer.

6 Bus routes exist currently along State Route 20. The nearest designated bus stop is
7 located near the northeastern corner of the site, serving travelers going in both directions
8 on respective sides of the roadway. Pedestrian access will be provided by public
9 sidewalks and a system of pathways in the subdivision.

10 D. Schools. The proposal is located in the Oak Harbor School District. The Applicant has
11 confirmed with the school district that two on-site bus stops will provide transportation
12 to the schools serving the site. See Ex. 9. In conjunction with the interior sidewalks of
13 the project site, the project provides safe walking conditions to the school bus stops.

14 E. Parks and Open Space. The Applicant has provided over 3.1 acres of active and
15 2.5 acres of passive open space. This 5.73¹ acres of total open space exceeds 10% of
16 the 36.7 acre project size. Staff have determined that the open space meets the
17 requirements of OHMC 19.31.110 through 19.31.130. Near the proposed subdivision,
18 the city trail system is accessible from the Scenic Heights trailhead and Fort Nugent
19 Park are both within approximately ½ mile of the subdivision. The Applicant will pay
20 an impact fee to help offset the City’s cost of providing park and recreation facilities.

21 F. Stormwater. The proposal will be served by adequate and appropriate stormwater
22 facilities and drainage ways. The design and construction of the stormwater
23 facilities will be required to meet the City’s adopted Department of Ecology
24 Stormwater Management Manual for Western Washington (SWMMWW) and City
25 of Oak Harbor supplements. See OHMC 12.30.310. The standards require that off-
site stormwater flows generated by the proposal not be more than those generated
by undeveloped, forested on-site conditions. The standards also include measures
to protect water quality based upon all known, available and reasonable methods of
stormwater prevention, control and treatment (AKART). See RCW 90.52.040 and
RCW 90.48.010. City Engineering staff have determined that the Applicant’s
preliminary stormwater design meets these standards. The Applicant is proposing
that stormwater runoff from roadways and other hard surfaces will be collected and
conveyed on the site to an on-site stormwater treatment and storage system before it
is released to the city stormwater system.

¹ These figures are taken from the staff report. They don’t precisely add up but still
well exceed PRD open space standards.

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CONCLUSIONS OF LAW

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Procedural:

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1. Authority of Hearing Examiner. OHMC 21.20.040(1) designates preliminary plat review as a Type IV process. OHMC 19.31.160 requires that PRD applications be processed concurrently with subdivision applications. OHMC 18.20.260 provides that the Hearing Examiner shall hold hearings and issue final decisions on Type IV applications.

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Substantive:

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2. Zoning and Comprehensive Plan Designation. The site is zoned R- 1 and its Comprehensive Plan map designation is Low Intensity Residential.

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3. Review Criteria and Application/Modification Approved. Chapter 19.31 governs Planned Residential Developments and Chapter 21.20 OHMC governs the criteria for preliminary plat approval. Relevant criteria for the preliminary plat and planned residential development applications are quoted below in italics with corresponding conclusions of law.

Preliminary Plat

OHMC 21.20.060(2)(d): *The hearing examiner shall review the application to determine whether the proposed subdivision conforms to the city's comprehensive plan, zoning code, and other planning documents adopted by the city council.*

4. Criterion met. The criterion is met. The staff report demonstrates conformance to the zoning code and comprehensive plan as necessary for the conceptual level of subdivision review. More detailed development regulation review will be conducted during final plat and building permit review.

OHMC 21.20.070:

(1) The hearing examiner shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication(s). It shall make written findings:

(a) Whether appropriate provisions have been made for, but not limited to, the public health, safety and general welfare, for open spaces, drainageways, 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 walk to and from school.

1 (b) *Whether the public use and interest will be served by the platting of the subdivision*
2 *and dedication(s).*

3 5. Criterion met. The criterion is met as appropriate provision has been made for
4 infrastructure for the reasons identified in Finding of Fact No. 6. Appropriate provision
5 is made for public health, safety and welfare because the proposal accommodates urban
6 growth as required by the Growth Management Act while at the same time minimizing
7 impacts as outlined in Finding of Fact No. 5 and also assuring adequate infrastructure.
8 For the same reasons the public use and interest is also served by the proposal.

9 **PRD**

10 **OHMC 19.31.170(1):** *Aside from the specific regulations, requirements or standards*
11 *proposed to be varied, the project otherwise meets the requirements of the Oak*
12 *Harbor Municipal Code.*

13 6. Criterion met. The criterion is met as demonstrated in the staff report.

14 **OHMC 19.31.170 (2):** *Critical areas should be preserved and incorporated into the*
15 *open space of the PRD. Buffer averaging and buffer enhancements shall qualify as*
16 *preservation if such is recommended in an approved critical areas report.*

17 7. Criterion met. The criterion is met as determined in Finding of Fact No. 5A.

18 **OHMC 19.31.170 (3):** *If smaller lot sizes and dimensions or decreased setbacks are*
19 *proposed from what is required by the underlying zoning, buildings on these lots must*
20 *meet requirements (3)(a) through (c) of this section or requirement (3)(d) or*
21 *requirement (3)(e) of this section:*

22 (a) *Garage walls facing the street must be no closer than the wall containing the*
23 *main entrance, or to the edge of a covered porch or deck if provided.*

24 (b) *A garage door wall which faces the street must not be more than one-half of the*
25 *facade width.*

(c) *The main entrance must be prominent, easily visible and directly accessible from*
the street frontage.

(d) *No two adjacent buildings on the same side of the street may have the same front*
setback. Setbacks must alternate from building to building. Minimum front
setback variation must be two feet or greater.

(e) *Residential buildings are accessed from an alley at the rear of the lots.*

1 8. Criterion met. The criterion is met. A condition of approval requires conformance
2 to the standard above for the duplex lots.

3 **OHMC 19.31.170 (4):** *If nonresidential uses are included in the PRD, such uses
4 shall be easily accessible to pedestrians, meaning that primary building entrances are
5 oriented to the street and set back no more than 10 feet from the property line or a
6 six-foot-wide pedestrian path is included connecting the nearest public sidewalk to
7 the primary entrance of the secondary use.*

8 9. Not Applicable. Not applicable, no nonresidential uses are proposed.

9 **OHMC 19.31.170 (5):** *Ten percent common open space is provided which complies
10 with OHMC [19.31.110](#) through [19.31.130](#).*

11 10. Criterion met. The criterion is met for the reasons identified in Finding of Fact
12 No. 5E.

13 **OHMC 19.31.170 (6):** *The PRD shall comply with all of the following adopted
14 standards:*

15 (a) *The requirements of OHMC Title [21](#), Subdivisions. Variations from the
16 requirements in OHMC Title [21](#) may be requested and reviewed as part of the
17 PRD application. Other than the specific standards being varied from, PRDs
18 must meet all applicable standards of OHMC Title [21](#), including the general
19 design standards (Chapter [21.50](#) OHMC) and the residential design standards
20 (Chapter [21.60](#) OHMC).*

21 (b) *The standards and requirements of this chapter. If there is a conflict between
22 the standards of this chapter and the standards in OHMC Title 21, the
23 standards in this chapter shall take precedence.*

24 (c) *The Oak Harbor comprehensive plan policies.*

25 (d) *The design guidelines and regulations, if applicable.*

(e) *All other standards adopted by the city of Oak Harbor, including engineering
details and drawings.*

11. Criterion met. The criterion is met, Planning and Engineering staff have found
the application to be in compliance with the above-referenced sections and the project
is consistent with the Comprehensive Plan.

OHMC 19.31.170 (7): *Applicants must meet either subsection (7)(a) or (b) of this
section:*

1 (a) *Enhanced design which includes one or more of the following on each building*
2 *within the development:*

- 3 (i) *A variety of exterior building materials such as brick, stucco, stone, and*
4 *wood used as primary siding or as accent materials on front facades; or*
5 (ii) *Building articulation (offsetting walls, inclusion of windows, changes in*
6 *material types) on side and rear walls of buildings; or*
7 (iii) *Side- or rear-loaded garages; or*
8 (iv) *Other Applicant-proposed building design enhancements.*

9 (b) *Optional site design elements which include one or more of the following:*

- 10 (i) *Ten percent or more of units within the development are qualified*
11 *affordable housing as defined by OHMC [19.08.695](#).*
12 (ii) *Inclusion of a mix of residential and nonresidential uses within the*
13 *development.*
14 (iii) *Fifteen percent or more of the gross area is open space.*
15 (iv) *The project will not only preserve but enhance or rehabilitate the*
16 *functions and values of a critical area of the site, such as significant*
17 *woodlands, wildlife habitats, streams or wetlands, subject to the*
18 *recommendations in an approved critical areas report. (Ord. [1904](#) §3,*
19 *2020;*

20 12. Criterion met. The criterion are met, the Applicant has chosen to meet the standards
21 of subsection (7)(b)(iii) by providing approximately 6.2² acres of open space – roughly
22 16.9% of the site. Staff notes that the design of the proposed buildings in the subdivision
23 also meet the standards of (7)(a)(i) and (iv) by the inclusion of upgraded facades and
24 landscaping in both the developed lots and tract areas. The proposed architectural elevations
25 show a variety of materials including horizontal lap siding, board and batt, shingle siding
and composition roofing. Building articulation is provided through the use of architectural
variation, prominent front porches, gables on the second floor and selected recessed garages.

² Another part of the staff report identifies a total of 5.6 acres of open space as
referenced in Finding of Fact No. 5E. The reason for the discrepancy is unclear but
both figures comply with PRD open space requirements.

DECISION

As conditioned below, the proposed preliminary plat and PRD conforms to all required criteria for approval of the Oak Heights Preliminary Plat, PRD (City File No. 2408-0047) for the reasons detailed in the Conclusions of Law above. The conditions necessary to assure compliance and required by this Decision are as follows:

Preliminary Plat

1. The Applicant's final plat document, landscape plans, architectural design and associated permits shall be in general conformance with the approved preliminary plat drawings entitled "Oak Heights Preliminary Plat/PRD," and dated November 6, 2024, and attached as Exhibit 3.
2. Applicant shall coordinate with the United States Postal Service for approval of mailbox location(s).
3. Wetland buffering shall meet the standards of OHMC 20.24.030(5), including but not limited to the equalization of the area utilizing buffer averaging. Such buffer areas shall be posted and protected per the standards of OHMC 20.24.
4. The Applicant shall coordinate with city staff to complete the dedication of a public park per the annexation agreement of September 2009.

PRD Standards

5. For zero lot line/duplex buildings, no two adjacent buildings on the same side of the street may have the same front setback. Setbacks must alternate from building to building. Minimum front setback variation must be two feet or greater.
6. Exterior design shall be in general conformance with the conceptual plans submitted by the Applicant and included as part of Exhibit 3.

Landscaping

7. Landscaping shall be designed and installed per the standards of OHMC 19.46 and 19.31.
8. The Applicant shall post a three-year maintenance bond to ensure landscaping completion and a minimum plant survival of 80 percent at the end of three years. The type of bond shall be approved by the City and must be submitted on forms supplied by the City of Oak Harbor. The approved bond shall be posted with the Development Services Department prior to the issuance of a building permit. The bond amount shall be 150 percent of a landscaping maintenance bid amount

1 submitted and approved by the City. The bid amount must include labor and
2 materials.

3 9. Any signage proposed for the subdivision is not approved with the Preliminary
4 Plat and PRD. A separate sign permit shall be required and approved before any
5 permanent signage including subdivision identification, is placed.

6 10. Perimeter landscaping is provided in the form of a required buffer with trees
7 spaced at 25 feet and ground cover as per the standards of OHMC 19.46 and
8 19.31. This buffer shall be installed with the construction of the subdivision and
9 not individually with single homes.

10 SEPA

11 11. Further field investigation be conducted to confirm the original conclusions from
12 the submitted wetland report about the lack of a wetland area in the northeastern
13 corner of the site.

14 12. The development of this property is subject to an Annexation Agreement (AFN
15 #4260219) between the City and the property owners and requirements under
16 such agreement shall be met.

17 13. The intersection of SR 20/SW 24th Avenue is forecast to operate at LOS F in the
18 future prior to the development of the project. The project will contribute to
19 additional total traffic and potential delay. To mitigate increased delay and
20 improve accessibility to SR 20 for the project and surrounding area,
21 improvements at two intersections will occur. The intersection improvements may
22 include eliminating left turn movements at the intersection of SR 20/SW 24th
23 Avenue; and the construction of a compact roundabout at the intersection of SR
24 20/SW Eagle Vista Avenue. These improvements will alleviate operational issues
25 that are anticipated to occur regardless of the project and will be completed jointly
by the developer and the City of Oak Harbor. The specific design of these
improvements will occur through coordination with Oak Harbor and WSDOT.
Upon approval of the compact roundabout the developer shall commence
construction of the improvements. If approval of the plans/permit are
unreasonably delayed, Certificates of Occupancy shall be issued with an
appropriate surety bond for the cost of the compact roundabout provided by the
Developer.

14. All improvements and measures included in the SEPA checklist to mitigate
impacts and shall be implemented in accordance with the proposed phasing plans,
and in accordance with the approved preliminary plat including but not limited to
the following conditions:

i. Design and build channelization improvements, approved by Washington

1 State Department of Transportation, at the intersection of SR 20 and SW 24th
2 Avenue, and SR 20 and SW Eagle Vista Drive. Construction of
3 improvements must be scheduled during low traffic seasons to minimize
4 impacts to mobility and access.

5 ii. Offsite drainage improvements proposed downstream shall be completed in
6 Phase 1 development.

7 15. Wetland buffers to be maintained, averaged, and enhanced in accordance with the
8 submitted Critical Areas Report and Habitat Management Plan

9 16. Landscape buffers along streets, detention basins, pathways, and the highway
10 must be completed with each associated phase unless a delay is justified to target
11 a specific planting season. Deferment shall be in accordance with OHMC
12 19.46.130.

13 17. Grading, land clearing, and other site work shall be in accordance with OHMC
14 12.30 and 19.47 and commence only after the preliminary plat has been approved.

15 18. The development will be required to utilize construction stormwater and erosion
16 control BMPs in compliance with City of Oak Harbor and Department of Ecology
17 requirements.

18 19. The Applicant shall sign a copy of the City's Inadvertent Discovery Plan (IDP)
19 and make a copy of the IDP available onsite during construction.

20 Clearing and Grading Plan

21 20. All BMPs shall be followed during clearing and grading of the property, and
22 during the duration of the project as required by the approved civil drawings.

23 Plat Drawing

24 21. Prior to approval of final plat, the Applicant is required to submit a copy of all
25 proposed deed restrictions and covenants.

26 22. The Applicant shall include dedication language on the face of the final plat as
27 stated in OHMC 21.40.040.

28 Engineering

29 23. Applicant shall coordinate with city staff on a potential street and utility
30 connection to undeveloped property in the vicinity of proposed lot 177.

31 24. Following approval of the preliminary plat by the city, the subdivider shall submit
32 to the city engineer the applicable plans and other documents, review fees as set

1 out in Title 21 and the city's fee schedule, and three complete sets of construction
2 plans and specifications (sheet size 22 inches by 34 inches) prepared by an
3 engineer registered in the state of Washington showing all improvements as
4 required in granting the preliminary plat. Such plans must be submitted and
approved by the city engineer prior to beginning any grading work on the site or
as otherwise approved by the City in connection with an early grading permit.
OHMC 21.30.020(1)

5 25. All construction plans and specifications shall be in conformance with the city
6 street and utility standards, as may be modified by this approval or as
7 otherwise approved by the City in connection with the civil plan review. The
8 subdivider shall indicate, either on the plans or by separate document, the
9 engineer retained to provide certification of all improvements. Approval shall
expire five years from the date of initial preliminary plat approval. OHMC
21.30.020(2)

10 26. A performance bond in the amount of 112 percent of the cost to construct required
11 and uninstalled improvements may be posted in lieu of the complete installation
12 of improvements; provided, that such bond is recommended by the city engineer.
13 All deferred improvements shall be completed within two years from the date a
14 bond has been accepted or the city will use securities to complete. The
15 performance bond shall specify exactly what improvements are included,
accompanied by a time schedule for completion. In lieu of the performance bond,
the developer may provide for other security approved by the city council at the
next regularly scheduled council meeting following the city engineer's approval
of construction plans. OHMC 21.30.020(3)(c)

16 27. Before acceptance of the improvements by the city, a maintenance bond or other
17 security acceptable to the city shall be posted by the developer jointly obligating
18 the developer, or some other party acceptable to the city, and a security,
19 acceptable to the city, guaranteeing these improvements from any defects caused
20 by faulty workmanship, materials, or design or combination thereof for a period
21 of two years from the date of written acceptance of the improvements. The
amount of bond or other security requested shall be determined by the city
engineer, but in no event shall the amount be less than 10 percent of the cost of
the improvements. OHMC 21.30.020(3)(f)

22 28. Stormwater facilities are subject to final civil and construction plan review and
23 may be subject to revisions based on submitted calculations and sizing of said
facilities.

24 29. Transportation and park impact fees shall be paid before building permits are
25 issued per the standards of OHMC 3.63.020.

Hearing Examiner.

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30. The building standards of OHMC 19.31.170 (3) shall apply to all lots involving PRD authorized smaller lot sizes and dimensions or decreased setbacks.

Dated this 17th day of April 2025.

Phil Olbrechts

Phil Olbrechts,
City of Oak Harbor Hearing Examiner

Appeal Right and Valuation Notices

This decision is final subject to appeal to superior court as governed by Chapter 36.70C RCW.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

Appendix A

March 27, 2025, Hearing Transcript

Oak Heights Preliminary Plat, PRD and Associated Permits

Project # 2408-0047

Note: This is a computer-generated transcript provided for informational purposes only. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. A recording of the hearing is available from the City should anyone need an accurate rendition of the hearing testimony.

Speaker 1 ([00:00](#)):

Let's get our recorders going. Ms. Heller, do you have it on your side?

Speaker 2 ([00:06](#)):

Yes.

Speaker 1 ([00:07](#)):

Okay, perfect. Okay, it's for the record. March 27th, 2025, 2:00 PM on Brooks Hearing. Examiner for Oak Harbor today holding a public hearing on the Oak Heights preliminary plat, which involves 209 I believe, or was it two 19? Yeah, lots single family lots and duplex lots. Pretty large project for the city of Oak Harbor. The format for today's hearing is we'll have a presentation from staff, I believe that'll be Mr. Lindbergh will give us an overview of the project once he's done. We'll let the applicant speak in favor of their project and talk about what it's about. And then after that we'll open it up for public comments and that's for anyone who they're in a meeting room or who's attending virtually. We'll make sure to hear from all of you about your comments on the application. After that, we go back to staff. That'll be a chance for Mr.

([00:57](#)):

Lundberg to answer questions and complete the record as he sees necessary. The applicant gets final word and I get 10 business days to issue a decision on all this. Now by state law, I'm only allowed to consider evidence that's put in the record. I don't get to talk to the applicant or staff or anybody about the project information or details. That's to ensure that everyone knows what information is being used to come up with a decision on this to determine whether or not the project application complies with the city's approval criteria. So Mr. Lindbergh has put together a staff report and some exhibits to back up his staff report composed of the staff report itself, zoning and vicinity map the application materials the applicant's put together. We have your public comments and of course I've read them all SEPA materials that deals with the city's evaluation of whether an environmental impact statement was necessary for this proposal.

([01:53](#)):

They determined that it wasn't necessary and then the noticing that was involved with the project as well. So at this point, just want to ask if anyone has any objection to entry of these documents or needs to see them before we put them in the record. If you're in the meeting room, just wave your hand and we'll recognize you. Or if you're participating virtually, just click on the virtual hand at the bottom or I should say the top of your screen there. So not seeing any takers, which is pretty common. You'd only

object on some technical grounds like the document wasn't relevant to our authentic. So I'll go ahead and admit the staff report and associated exhibits, exhibits two through six. So Mr. Lindbergh, are you the one that's doing the presentation today? Is that right?

Speaker 3 ([02:34](#)):

That is correct.

Speaker 1 ([02:34](#)):

Okay. Let me swear in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 3 ([02:40](#)):

I do.

Speaker 1 ([02:41](#)):

Okay, great. Go ahead.

Speaker 3 ([02:43](#)):

Okay, I just want to introduce this, but you covered it very well. It's a 36.7 acre parcel with 219 homes proposed. Just as a side note, we do have our engineering staff represented by John Pollock available for any questions if we do have those as we go through this. This is a little bit different than your typical R one single family residential preliminary plat because they are requesting a portion of the property be dedicated for zero lot line or duplex lots at the northeast corner of the site. And because of that they're going to be requesting reduced setbacks obviously and some size dimensional standard changes to what would be allowed into R one zone district. With our recent changes to the R one district to allow smaller lot sizes, the rest of the single family homes will be able to be approved as just a preliminary plat, but because of the portion of the Northeast they're requesting also the PRD as part of the PRD, they're required to give us certain mitigations to kind of mitigate some of the density issues that might come with a smaller lot sizes and those smaller setbacks.

([03:54](#)):

And so they have proposed those as well. Their application materials are found in exhibit three. I'm not going to go through all of 'em. They're very detailed and cover everything that we need to have covered. So that is part of the review obviously. So we have 153 single family homes and 66 0 lot line slash duplex lots. I'll go through a brief analysis of it, but again, it's all in the staff report. Do keep in mind there was an annexation agreement between the previous property owners and the city that was signed in September of 2009. There were three kind of primary standards for that annexation agreement. The first one being that the applicant needs to extend Southwest Eagle Vista Drive westerly from its intersection at the state Route 20 to the western edge of the property, which they have proposed the applicant or there was a requirement for downstream stormwater facilities that were insufficient at the time. The city has addressed some of those issues and further development downstream has also addressed some of those issues. So that will be handled in the civil plan review process, but that will be held to as part of that annexation agreement. And then the applicant at the time agreed to dedicate Parkland for public use and then also a multi-use trail through the annexation area and that will be handled at a staff level at time of the final plat. The dedication usually happens at that time.

([05:32](#)):

The following applications are under review right now. We have the preliminary plat included with that is the building elevations and the landscape plan also. And then of course there's the PRD that goes along with it. Transportation concurrency was filed with this and as you mentioned the cipa, the State Environmental Policy Act checklist was filed. We did go through the process with the CIPA checklist and submitted an MDNS approved an MDNS. We had some minor changes to make to that, so we went back and submitted a revised MDNS did not get any further comments or appeals as of yesterday at 4:30 PM So that one is good to go and doesn't require any action on your part. So going through the preliminary plat, there are a number of criteria that are required to be addressed by the application staff has determined that all of those are sufficiently addressed and feel that it is appropriate to use of the land based on those standards and the standards that are in the comprehensive plan as well.

[\(06:41\)](#):

The PRD is where it gets a little bit more complicated because they are requesting those reduced setbacks and lot sizes. They're required to essentially, like I said, mitigate any negative impacts of those two items by increasing other design criteria. Essentially the applicant has proposed to go with a varied setback on the frontage of those zero lot line properties, which is one of the standards that they can comply with. And so we have accepted that we do have additional landscaping that's been provided. They have provided us some examples of what it is that they're proposing for that location. Staff has concurred with that application or that design. And then they also have the open space that is required by the 1931, the PRD section. They have significantly more than is required actually. So that's a good thing. And then also just as a note that the PRD needs to comply with all of the adopted standards that are within the R one district chapter 19 or Title 19 and also Title 21 subdivisions. So they're not asking to vary from anything that would change, uses or change any adopted standards other than those dimensional standards. Planning and engineering staff has reviewed the application and concurs with all the information that was provided to us. So we are comfortable with that. And as I mentioned previously, the comp plan, comp plan designation for that area is the low intensity residential. We feel that single family homes and zero lot line duplex homes meet that criteria well and further the comp plan standards in that area.

[\(08:43\)](#):

Sorry, just scrolling through here, making sure I cover everything. So for the landscape plan, they did a final landscape plan. It is of an appropriate level of detail. We have standards for street trees, open space areas, entrance areas, road frontages, and the perimeter of the subdivision. All we had on there was just a note that we would like to see trees that are listed on the Seattle street tree list for the street frontages or for the right of way areas and with the caveat that they probably want to utilize at least a couple of different species in case there's any disease or anything that might come through the area. And we don't want to wipe out all the trees in the subdivision. Native vegetation has been provided per the standards of the OHMC and it's generally in the areas near the existing wetlands and walking paths, which is a good spot for them.

[\(09:37\)](#):

We did get a public comment from a number of people in the area. There were concerns about the increase in traffic resulting from construction of new homes. We did get the traffic study and there is a revised traffic study that I will comment on in just a moment that addresses that information. Other potential concerns were contamination and pollution generating from hard surfaces, streets, roofs, et cetera. Just note that all projects in the city of Oak Harbor are subject to the Western Washington stormwater manual, which includes treatment and release of that stormwater. So that is hopefully a minor concern at this point that it's taken care of as part of the construction process. And in two comments we're concerning privacy situation on a house that exists to the south of the site. Staff feels

that the application of the PRD standards for landscaping and perimeter fencing will address those sufficiently.

(10:39):

And then another comment was regarding a potential street connection to an adjacent parcel of land. We have included that as a condition of approval to work with city staff to complete the Gridded Street connection in that area. So that's something we'll work with the applicant on with the engineering department as well. So part of the, we discussed the SEPA checklist, that's no longer or no further action is required on that. The review process, we have reviewed the plans and documents here and determined that we can recommend approval based on some conditions of approval. And that point, the effect of an approval is that the applicant may develop those construction plans for the proposed improvements including civil plans and other details. And the construction of the improvements are not to begin until all plans have been stamped and approved in writing by the city engineer. So essentially what will happen today is if we get an approval based on the application materials, then they will be able to move on to their civil planning begins construction.

(11:51):

So we have our of conditions of approval here and just like I said, I wanted to make a couple of notes on here. The applicant got in touch with me recently and reminded me that there was an updated set of plans that were submitted in November for the PRD and the plat itself and then also a revised traffic impact study that was also submitted in November. And what I'd like to do is enter those into the record following the meeting here and change any reference to the approval to include that set of plans and traffic impact statement so that we are making sure that we're working off of all the same set of plans. There were some minor changes made, they don't change anything that staff has as far as comments or conditions of approval. So with that I would just propose that condition number one be changed to the plans dated November, 2024 rather than August, 2024.

Speaker 1 (12:51):

Okay. And in terms of getting those documents into the record, let's label the revised plans exhibit seven. Anyone need to see those or have any objections to they're entering the record. Again, if you're attending virtually, click on the virtual hand. If you're in the room, just wave your real hand. Alright, note taker. So I'll go ahead and admit that as exhibit seven. And you said we have a revised traffic report, make that exhibit, oh sorry,

Speaker 4 (13:13):

1% in Chambers film who does have their hand raised, I believe in reference to wanting a copy of that document. Is that right? Okay.

Speaker 1 (13:22):

Can you get that over to Ms Heller?

Speaker 4 (13:25):

Yes, yes, I can get that over time.

Speaker 1 (13:27):

Okay. Yeah, and I'll just, yeah, for whoever was raising their hand, if you do have a problem, some objection with the documents, just raise your hand later and we'll consider that. Then exhibit eight

would be the traffic report. Does anyone need to see that or have any objections to improve that document in the record? Okay, so note takers and we'll

Speaker 4 ([13:45](#)):

Same gentleman and the chambers. Yes,

Speaker 1 ([13:48](#)):

I make

Speaker 4 ([13:49](#)):

Sure we have a copy of that document.

Speaker 1 ([13:50](#)):

Perfect. Alright, so I'll go ahead and admit that as well. And again, if the person who wanted to take a look at that has objections over it, they can raise their hand later and we'll deal with that. So Mr. Berg just, I kind of wanted one of the engineers to go point by point. There were some comments raised by Mr. Eng engine about the traffic report, a bunch of questions. I thought it would be useful to just kind of address all of those there. It was on page 15 of exhibit four. Is there someone from city staff that might be able to answer those questions in the hearing or maybe the applicant's traffic consultant if they're participating?

Speaker 3 ([14:29](#)):

Sorry, I'm going to open up exhibit four real quick and look at that. You said page 15?

Speaker 1 ([14:33](#)):

Yeah, I think that's, yeah, yeah, I see if I can get that back up. Just lost it again for some reason.

Speaker 4 ([14:39](#)):

While he is looking at, can I get some clarification on the documents we're providing to the gentleman here in Chambers? Is the expectation that he is looking at them right now and deciding if he has comments while we're here or will the record remain open for a period of time for him to provide comment

Speaker 1 ([14:55](#)):

After? Well if he needs time after the hearing, I can leave the record open a little bit for that. Sure. Yeah,

Speaker 4 ([15:01](#)):

It's very unfortunate today our timing is off. Our big plotter printer that we would normally use to print them out is not working, so I don't have the ability to hand him that paper at this month during the meeting.

Speaker 1 ([15:13](#)):

Okay. I'll leave the record open then you

Speaker 4 ([15:14](#)):

Would be there to leave some time for him to actually review and

Speaker 1 ([15:17](#)):

Comment.

Speaker 4 ([15:17](#)):

Yeah,

Speaker 1 ([15:18](#)):

No problem. Yeah, just at the end of the hearing remind me and we'll leave the record open so he can take a look at that.

Speaker 3 ([15:23](#)):

Okay, thank you. Okay, I have my document open to page 15, which

Speaker 1 ([15:27](#)):

Yeah, it actually starts on 14, just two lines and then yeah, it's those bullet points there. I was just wondering if someone from the city or the applicant team could kind of address those because as you said, stormwater regulations are very comprehensive and cover any impact people can think of. Traffic analysis is a little more wide open so it helps to kind of address specific concerns when you can. So

Speaker 3 ([15:51](#)):

Sure, I would probably defer this line to John Pollock with regards to the stormwater storm drainage report, et cetera.

Speaker 1 ([16:02](#)):

Well, I'm just asking about the traffic report. That should be

Speaker 3 ([16:04](#)):

Oh.

Speaker 1 ([16:05](#)):

Oh, okay. Maybe my page numbers are off. I'm sorry. Yeah, I meant to, my questions are about the traffic report, which starts on 15, that's my fault. I identified the wrong page. Yeah, starting on page 15 through 16. Right.

Speaker 3 ([16:20](#)):

I would still defer to John on that one because that is his review in the traffic report and the engineering standards.

Speaker 1 ([16:28](#)):

Okay, so that's on your staff, is he?

Speaker 3 ([16:30](#)):

Yes. And John, I believe it's available online if you would like

Speaker 1 ([16:34](#)):

To

Speaker 3 ([16:35](#)):

Ask a question.

Speaker 1 ([16:36](#)):

Sure, yeah. Let's see, John, are you there? I didn't catch your last name.

Speaker 5 ([16:44](#)):

Yes sir. My name is Jonathan Pollock. I'm an engineering technician here at the Public Works

Speaker 1 ([16:48](#)):

Depart. Oh, there you are. Okay. Let me swear you in real quick, just raise your right hand. Do you swear affirm to tell the truth, nothing about the truth in this proceeding?

Speaker 5 ([16:55](#)):

Yes sir.

Speaker 1 ([16:55](#)):

Okay. And do you have access to the public comments exhibit four that starts there on page 15?

Speaker 5 ([17:04](#)):

I'm looking to have that open at the moment. It's are referring to the entire packet for your approval.

Speaker 1 ([17:15](#)):

Well I was given exhibit four separately. I was given an email with the different exhibits as separate files and this is the public comments part of exhibit four

Speaker 5 ([17:31](#)):

Because I have a 554 page document.

Speaker 1 ([17:35](#)):

Okay, that's a little longer. Yeah, exhibit four is just 19 pages. Well Ms. Heller, can you maybe email him exhibit four?

Speaker 4 ([17:45](#)):

I'm working on it.

Speaker 1 ([17:46](#)):

Oh, Ms. Berg. Okay,

Speaker 4 ([17:48](#)):

I'll whichever one of us gets it done first.

Speaker 1 ([17:50](#)):

Okay, perfect.

Speaker 3 ([17:53](#)):

John, you should have an email in just a moment. Okay.

Speaker 5 ([18:04](#)):

Okay. Exhibit four and you said this was page 15?

Speaker 1 ([18:08](#)):

Yeah, starting at page 15, traffic report.

Speaker 2 ([18:15](#)):

Okay,

Speaker 5 ([18:22](#)):

So the first bullet point regarding the speed limit on SR 20 with the classification as an urban principal arterial versus the change to the 50 mile per hour speed limit which occurs south of the intersection of Eagle Vista and Highway 20. That is a true statement to the extent of that is the current condition. However, as part of this project it is the city's intention to approach WashDOT with the intent to adjust that speed limit to be even lower and extend that lower boundary further south nearer to the intersection of Southwest Waterloo and SR 20 to help mitigate any concerns about high speeds with the turning motions off of the highway.

Speaker 1 ([19:17](#)):

Okay.

Speaker 5 ([19:20](#)):

Second bullet point referring to traffic volume locations with potential flows with Ridgeway and Swan Town reading through this.

Speaker 1 ([19:30](#)):

Yeah, it looks like their concern is it's not taking into account some inputs to those intersections maybe I don't know if you can comment on that accuracy of that.

Speaker 5 ([19:38](#)):

Correct. And that was based upon engineering's direction that between the city and the state, we already know that the intersection of Southwest Swan town is failing as it stands and the State Department of Transportation is working through designs for mitigating the known congestion issues at

Southwest Swan Town, in fact all the way through the corridor to Southwest Barrington Drive northward.

Speaker 1 ([20:05](#)):

And I think that touches on the legal issue, right? That the city doesn't mitigate state intersections and that's up to WashDOT and if WashDOT wanted to get some mitigation, they could request that they have an in this case is my understanding and the city can't otherwise require the developer to mitigate impacts of that, is that correct?

Speaker 5 ([20:25](#)):

Well we as a city can require the developers to provide for improvements to the SR 20 corridor in conjunction with washout gain their approval for proposed items and that is one of our ongoing discussions between engineering and the applicant team is to have improvements made on SR 20 to help mitigate the congestion that the immediate vicinity of the project will have. However, northbound again this point was that we chose to be relatively lenient and since it's already a known issue at Swan Town, we didn't see the value in knowing that it was still a known issue. You can go down to Southwest Swan Town Avenue at any given afternoon and find that traffic is congested very heavily through the corridor.

Speaker 6 ([21:20](#)):

It's

Speaker 5 ([21:21](#)):

Not a surprise to anybody that lives in the area. Will the impact of this development have additional congestion on that? Yes, until such time as both the city and WashDOT can come together with a true plan for improving that particular intersection and the rest of the traffic stream up and down from that area, our applicant team here is proposing some rather robust design changes to the corridor immediately adjacent to their property, which we felt was a fair and equitable exchange in that matter.

Speaker 1 ([21:57](#)):

But I mean Wash Dot hasn't requested any mitigation from this project right now for those

Speaker 5 ([22:03](#)):

They have requested some they're working through reviewing some of the others. Is my understanding at

Speaker 1 ([22:07](#)):

This moment

Speaker 5 ([22:08](#)):

Some more enhanced mitigations for that.

Speaker 1 ([22:11](#)):

But has that been imposed or that might be imposed in the future? What's the status of that?

Speaker 5 ([22:16](#)):

That will be imposed through the civil plan approval stage here At my level as far as we know that this is happening, you're proposing to do these things, wash has agreed to them. If that gets to the state or they want to have more of a hand in designing what the developer, the proposed applicant team is proposing, if they want to say yes but do it this way or no, you can't have that, we need to do something different that's going to be worked through at my level. Once we get beyond this initial approval stage,

Speaker 2 ([22:51](#)):

We

Speaker 5 ([22:51](#)):

Are well aware of the congestion problem in the area and we have mechanisms in place to address that.

Speaker 2 ([22:58](#)):

Okay,

Speaker 5 ([23:00](#)):

Next bullet point going down location six, direct connection highway 20. I'm not familiar with what they're calling location six on that, but I believe that he's referring to the parcel that's just south of the proposed development. And in fact, I believe I already spoke with gentleman about this, we are with the mitigations that our applicant team is proposing, they will be shifting more towards a lower speed corridor in the area and with greater control over the turning motions, both left and right turning motions will have greater control. So speaking about this, that is being taken into consideration as this proposal moves forward.

Speaker 1 ([23:47](#)):

So in terms of speed limits, that's not just for clarification for the public, that's not something we'd impose as part of a permit application, but it is something that the city could do of course at any time. And you're saying the city is considering that right now?

Speaker 5 ([24:01](#)):

So yes, but no sir, just

([24:04](#)):

To be clear, WashDOT is the authority on the speed limits along SR 20 we have inputs into those speed limits and in the past what they have said to us is that if we wish to adjust those, what they require is improvements being made onto that corridor to the reduction in the speed limit. So in this case, with this development coming online in the near future, when they conduct those improvements, when they construct the mitigations, the designs that they are improving, at that point in time we as a city will approach Washington and say, Hey, we have met your condition, please reduce the speed out to this point.

Speaker 1 ([24:43](#)):

Okay, gotcha. Good. Alright and final point, I guess there

Speaker 5 ([24:46](#)):

The final point, page 15, all the sign acts operate at level service B are better E along S for 26. So he's referring again to flow motion charts of the attorney motions and the delays through that. He doesn't cite the level of service that we are with there at the end. We don't require level of service B or better for the intersection within the city. That's level of service D delta

Speaker 6 ([25:24](#)):

And

Speaker 5 ([25:24](#)):

Then level of service E echo for the highway. So again, this one I believe that we are working through with the improvements that are being proposed by our applicant team for this area as well as future connectivity grading through the ROW network for additional access points north and west. As we continue to see development in the area, we'll have other avenues for traffic to flow northbound in the safer and probably easier to access way. Yeah,

Speaker 6 ([25:59](#)):

The

Speaker 5 ([25:59](#)):

Concern is a valid one, but I believe that it's not entirely accurate as far as what he has presented there in that statement. And now that I see the gentleman's contact information, I can't say with certainty I have spoken with him about this and helped him to understand these before and I do believe that the development team is on the right track from what I've seen in their initial design criteria and our dialogue back and forth.

Speaker 1 ([26:30](#)):

Perfect. So you said the city's adopted LOSD and E. Is that adopted in, I mean for you just have different types of intersections or is it based on location in the city?

Speaker 5 ([26:43](#)):

So level of service D dog

Speaker 1 ([26:46](#)):

Is

Speaker 5 ([26:47](#)):

Reserved for the intersections that are within the city's street grid that are not on the wash dot corridor. So the SR 20 corridor, those intersections, all streets that touch it are expected to operate at level of service e echo, everything else within the city is expected to operate at or above or at level of service D dog.

Speaker 1 ([27:10](#)):

Okay. Alright, great. Thanks Mr. Pollock. Very helpful. I'm glad I asked actually. I know traffic is usually a big concern for people and in my decisions I try to be address everything that they raise. So you've made that a lot easier for me. So let's I guess move on then at this point to the applicant team, did the applicant want to say anything at this point? I

Speaker 7 ([27:40](#)):

Apparently I'm considerably shorter than the last person who used this mic.

Speaker 1 ([27:45](#)):

Do

Speaker 7 ([27:46](#)):

You want to start with,

Speaker 1 ([27:46](#)):

Yeah, want you to tell us who you are and then I'll swear you in.

Speaker 7 ([27:50](#)):

My name is Kathy Orey and I'm the project manager with Dr. Horton.

Speaker 1 ([27:53](#)):

Okay. Ms. Orey, I'll swear you in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 7 ([27:59](#)):

I do.

Speaker 1 ([27:59](#)):

Okay, great. Go ahead.

Speaker 7 ([28:02](#)):

Good afternoon, Mr. Examiner, the public. I look forward to speaking with you all more as the project moves forward. First I'd like to start by thanking staff for working with us. This has been a long time coming as I'm sure many people in the room are aware. This project was previously approved under a different developer and ultimately that project failed. And so we have picked this project back up, excuse me, it expired. We have picked this project up and are now entitling it. This project is somewhat different in that with the city's new codes we are able to bring more variety of units to the city. Some that are certainly at a much more attainable price point than what you're seeing in most new developments. So I look forward to bringing that to pre and for the city as I know housing is a significant concern for the area.

([28:56](#)):

I would like to make a couple of comments as well. First of all, I know that traffic is a significant issue and if there are further questions that the audience or the examiner have, I have Dan McKinney with Transpo who was our traffic engineer and they transfer prepared the traffic impact analysis. So they're

available if you should have any additional questions, if there are any procedural items that come up. I have Peter Durland with JMMK law who is available to take questions. And if there are any questions specific to civil engineering, I have our in-house engineering team, DHI engineering available to answer questions. That's Colin Lund and Preston I Gotti. So if there are specific technical questions that any of these individuals can answer, I'm more than happy to have them respond to those questions. Also want to make a point of clarification. I think it's a little unclear because we are proposing A PRD here.

[\(29:54\)](#):

We are proposing five foot side yard setbacks throughout the plat, not just on the duplex lots. The difference with the duplex lots is that we will have five foot on one side and zero on the demising wall between the units. I kind of like to add a little bit of clarification to some of the answers and responses that John with the city has answered are we had gone back and forth in numerous meetings with the city and with WashDOT because we have dual jurisdictions that have priority and authority over the plat and the WashDOT corridor. That communication is ongoing and I think that's why it would appear that there's some uncertainty with how we're actually proceeding because we can't proceed and the city can't authorize any improvements to the wash dot corridor without wash DOT's approval. So I think that's why it appears that it's a little wishy-washy at this point.

[\(30:52\)](#):

It's because we have to continue going through that tri-party process to finalize what Wash out will accept those improvements. I know that our CIPA mitigation measure proposes perhaps some turning movement controls at 24th to address concerns there and a potential for a mini roundabout at the SR 20 Eagle Vista connection. But again, we can't finalize what all that will look like until we obtain WashDOT's consensus and approval on those. And I'm sure Dan McKinney could speak much more thoroughly to any of the other questions that were raised in exhibit four if he feels that those still need to be addressed. I would also like to, as I go back through my little questions here, point out that there we are, the conditions of approval basically allude to the continuing conversations that have been going on under CIPA condition number 13. So that sort of encompasses the level of discussion that we've had thus far.

[\(32:03\)](#):

There are a couple of other items that I would like to enter in the record and I will provide this to the city team and they can get that into the record. I understand that school's sake walk conditions have been a concern for other plat hearings in the past. We have in fact reached out to the school district and have obtained confirmation that there will be two bus stops within the future development itself. And so via the onsite, the interior PLA sidewalks and the interior plat bus stops, school safe walk conditions have been met. And I will submit that into the record is one other point because we are still continuing to work through obviously the designs with WashDOT and some of the public versus private road standards. There are two conditions of approval that I would like to request be slightly amended on condition number 24, which goes to the engineering plan approval prior to any grading work.

[\(33:02\)](#):

We have in fact submitted an early grading permit. In order to balance this site, we need to grade it. And so we'd like to do that in advance while our civil plans are being reviewed and approved. So I am requesting that the last sentence of that condition be amended to say such plans must be submitted and approved by the city engineer prior to beginning any grading work on the site or as otherwise approved by the city in connection with an early grading permit. And then on condition number 25 it says that all construction plans have to be in conformance with the city street and utility standards. As you know, the PRD provides flexibility in design and one of those goals that it hopes to achieve is reduction in

impervious surface. And so we are continuing to explore ways that we can potentially reduce the impervious surface within the loop road of the duplexes.

(33:54):

So I'm requesting that that condition be revised to say all construction plans and specifications shall be in conformance with the City street and utility standards as may be modified by this approval or as otherwise approved by the city in connection with the civil plan review. I think that is all I have based on the comments that I heard during the city staff and the public's concerns. If there are any other questions you have for me, I would be happy to take them or if there are any questions that you have for our technical consultants that are available.

Speaker 1 (34:26):

Okay. Well first let's get your school safe walking conditions analysis into the record. Any objections over getting that document in as exhibit nine that addresses whether school children will have safe walking conditions to the school bus stops? Any takers out there? Okay, see none. We'll put that in as exhibit nine. Ms. Dy, just a quick question about your request for revisions. I mean, my understanding of modifications to standards done through the PUD process is that's done through the hearing exam or approval, not through staff civil review. I mean, are you saying that you want staff to be able to modify design standards using PRD authority just as part of civil review as opposed to getting that approved through the public hearing process?

Speaker 7 (35:13):

No, what we are requesting is that we may be requesting to use some private road standards versus the public road standards, but we're still in the ongoing discussions with the city. If in fact they're not in favor of us going that route, we are more than happy to use the public standards that are currently in the plans.

Speaker 1 (35:30):

Okay. Alright. Sounds good. Alright. I think is that it for the applicants then? Okay, perfect. Alright, let's move on then finally to the purpose of today's hearing, which is to hear from the public. And first Ms. Heller, why don't we go through the people in the room first and do you have a sign-in sheet Ms. Heller you can use to call people up?

Speaker 4 (35:52):

I do, but we don't have one name I don't believe. Unless they've changed their minds. Would you like to comment? Okay. And we have one other member of the public. Would you like to comment? No. Okay. We don't have anyone here in the room who would like to comment.

Speaker 1 (36:11):

Okay. Then I'll just ask people who attending virtually, if there's anyone that wants to say anything, raise your virtual hand. I don't think there are any takers there either. Right. Ms. Heller? It looks like Pete Durland wants to speak. He's the applicant's attorney I believe. Is that it?

Speaker 2 (36:27):

Yeah.

Speaker 1 ([36:27](#)):

Okay. Well, I mean when we get back to applicant comment, Mr. Durland, I'll let you speak then. Just so we maintain the order of the proceeding, it's not a problem. Staff response, any staff rebuttal at this point?

Speaker 3 ([36:40](#)):

I just have a couple of comments. I did talk to the applicant about the two proposed changes to the conditions of approval and they look good

Speaker 1 ([36:48](#)):

To

Speaker 3 ([36:48](#)):

Me. And then also with regard to the setback comment, the setbacks for single family homes are five feet on either side. So what she said is true. I just wanted to clarify. The single family homes are going to be meeting the standard setbacks for just a regular plat and then it's just those zero lot line duplex lots that will be five feet on one side and zero on the other.

Speaker 1 ([37:12](#)):

Okay. And Mr. Linberg just, I mean I know I can just go to the tape recording, but just to be sure that everyone's in agreement on the revised conditions, could you maybe between you and the applicant email me the provisions to the conditions you requested at the hearing today?

Speaker 3 ([37:28](#)):

Absolutely. Yeah,

Speaker 1 ([37:29](#)):

That's good. Makes it a little cleaner. Okay, we'll go back to applicant. Mr. Durland, you wanted to say something?

Speaker 8 ([37:37](#)):

Yeah, thank you Mr. Examiner. I just had one clarifying question about the record. I was just curious to see, to hear how long that was going to be kept open after this hearing. And I guess we would ask that it be limited to any objections for the entry of exhibits.

Speaker 1 ([37:54](#)):

Okay. Alright, well yeah, I mean I don't think that we need to keep it open a long time. Maybe until, let's see, today's Thursday until next Tuesday at five that the person who wanted to look at these and I mean the thing is this is new information, so they should be allowed to speak on the new information and I let 'em do that In terms of the revisions, the revised plans or any revisions to the traffic report, if the person wants to make comment on that, they can just get your comments, like I said, about Tuesday by five. And then the applicant and staff can respond by what a couple days later does that work with the applicant? That'd be next Thursday then a week from now. And if it turns out their comments are lengthy, I can certainly extend the time for applicant response. That's not a problem.

Speaker 8 ([38:38](#)):

We have no objections to that.

Speaker 1 ([38:39](#)):

Okay. That's the way we'll work it then. So to be clear, let me look at my little calendar here. Alright, so the person who has to look at the revised traffic report and revised plans, I'll have until the 1st of April to provide any objection or comments in response to those changes to the traffic report or the plans. And again, it's only responses to changes in the traffic report or the plans. And then staff and applicant can respond to those comments by the 3rd of April by 5:00 PM and just make sure for the person looking at the plans to email those to, should that be Mr. Lindbergh or Ms. Heller?

Speaker 4 ([39:22](#)):

Both would be great.

Speaker 1 ([39:23](#)):

And we can

Speaker 4 ([39:24](#)):

Slow the comments and then make sure they're forwarded to you.

Speaker 1 ([39:26](#)):

Okay, sounds good. Yeah, so just email those if you don't have their email addresses, of course, just you can get that once the hearing is adjourned. So with that, I think we've done everything we need to today on this one. And yeah, for a project this big, I'm not used to seeing such a small turnout. I guess that means it's a good project that's been well mitigated and that's good to see. So anyway, thanks all for participating today and we're adjourned.