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**BEFORE THE HEARING EXAMINER  
FOR THE  
CITY OF POULSBO**

**FINDINGS, CONCLUSIONS AND DECISION  
APPROVING**

**THE “CALAVISTA”  
PLANNED RESIDENTIAL DEVELOPMENT AND  
PRELIMINARY PLAT APPLICATION**

**OWNER/APPLICANT:** CALDART POULSBO, LLC  
C/O BARRY MARGOLESE  
1631 15<sup>TH</sup> AVENUE W, SUITE 318  
SEATTLE, WA 98119

**APPLICANT’S AGENT:** RON CLEAVER, RDCJR ENGINEERING, LLC  
3231 NE TOTTEN ROAD, SUITE 103  
POULSBO, WA 98370

**APPLICATION:** PROPOSAL TO SUBDIVIDE 9.05 ACRES INTO A 43 SINGLE-FAMILY LOT PLANNED RESIDENTIAL DEVELOPMENT (PRD) AND PRELIMINARY PLAT, WITH ASSOCIATED IMPROVEMENTS INCLUDING ROADS WITH AVAILABLE PARALLEL PARKING, OPEN SPACES, RECREATIONAL AMENITIES, AND UTILITY AND STORMWATER FACILITIES.

**LOCATION:** 19700 CALDART AVENUE SE, TAX PARCEL NO. 132601-3-065-2006  
19840 CALDART AVENUE SE, TAX PARCEL NO. 132601-3-003-2001  
*(THE PROJECT SITE IS COMPRISED OF TWO ADJACENT PROPERTIES, WITH ONE EXISTING HOME ON EACH PARCEL, ONE OF WHICH WILL BE RETAINED AND ONE WILL BE REMOVED AS PART OF THIS PROPOSAL)*

**ZONING DISTRICT:** RL – RESIDENTIAL LOW, SINGLE FAMILY RESIDENTIAL

**SUMMARY OF DECISION:** *APPROVED*, SUBJECT TO CONDITIONS

**DATE OF DECISION:** AUGUST 31, 2020

## **CONTENTS OF RECORD**

Exhibits entered into evidence as part of the record, and an audio recording of the public hearing, are maintained by the City of Poulsbo, in accord with applicable law.

### ***Exhibits:***

The City of Poulsbo “Staff Report” and recommendation (of APPROVAL) for the “Calavista Planned Residential Development and Preliminary Plat” was distributed to the Planning Commission on June 16, 2020. The Planning Commission met to consider the pending application and recommended approval on June 23<sup>rd</sup>. By memo dated July 2, 2020 directed to the Hearing Examiner, Staff supplemented the Staff Report with items added at or shortly following the Planning Commission meeting, including commission findings and a recommendation of approval, and proposed meeting minutes. Staff added additional materials to the Staff Report via a memo dated July 15<sup>th</sup>, as directed by the Examiner at the public hearing, to clarify topics addressed at the hearing and respond to new public comments received after the initial staff report issued. The full record is numbered and described on the following list:

<b>Log Number</b>	<b>Exhibit Number, as used in this Decision, Description, and Identification provided in Staff Report</b>
1	Project File
2	Staff Report – <i>dated June 16, 2020</i>
3	A. Application <ol style="list-style-type: none"><li>1. PRD &amp; Preliminary Plat Application</li><li>2. Project Narrative</li><li>3. Developability of Lots 26 and 27 adjacent to out-parcel access easement</li><li>4. Transportation Concurrency</li></ol>
4	B. Project Drawings <ol style="list-style-type: none"><li>1. Preliminary Plat Drawing, (Revised 4/24/20)</li></ol>
5	C. Preliminary Landscape Plan, (Revised 3/2/20)
6	D. PRD Home Design Elevations
7	E. Environmental Documents <ol style="list-style-type: none"><li>1. SEPA Threshold Determination</li><li>2. Mitigations</li><li>3. Site Location Map</li><li>4. Environmental Checklist Commented</li><li>5. SEPA Cover Memoranda – Planning and Engineering Department Memoranda</li><li>6. Project Drawing Set (Revised 2/25/20)</li><li>7. DFW stream Type determination</li><li>8. Preliminary Storm Drainage Report (Revised 4/20/20)</li><li>9. Peer Review Preliminary Storm Drainage Report</li></ol>

	10. Revised Limited Geotechnical Engineering Report (Revised 12/19/19) and Letters (12/13/19 and 1/13/20) 11. Peer Review Geotechnical Information 12. Stream Drainage Assessment (9/24/19) and Letter (12/20/19) 13. Tree Retention Report (Revised 2/20/20) 14. Peer Review Tree Retention 15. Traffic Impact Analysis (Revised 2/20/20) 16. Applicant acknowledgement of 11 Mitigations
8	F. Engineering Department Review
9	G. Public Noticing 1. Neighborhood Meeting Notice and Affidavit of mailing 2. Notice of Application and Affidavits of publication and distribution 3. SEPA Determination Affidavits of publication and distribution
10	H. Public Comment 1. Notice of Application 2. Other Comment Received 3. Public Hearing Written Comment – <i>Added in Staff Report Addendum 3, July 15, 2020</i>
11	I. Public Comment (Nilsen, June 21, 2020) – <i>Added in Staff Report Addendum 1, June 23, 2020</i>
12	J. Public Comment (Baker, June 21, 2020) - <i>Added in Staff Report Addendum 1, June 23, 2020</i>
13	K. Planning Commission Findings of Fact, Conclusion and Recommendation - <i>Added in Staff Report Addendum 2, July 2, 2020</i>
14	L. Planning Commission Draft Meeting Minutes - <i>Added in Staff Report Addendum 2, July 2, 2020</i>
15	M. Public Notices - <i>Added in Staff Report Addendum 2, July 2, 2020 memorandum</i> 1. Planning Commission Public Meeting Notice and Affidavit of distribution 2. Hearing Examiner Public Hearing Notice and Affidavits of publication, distribution and posting
16	N. Modification of condition of approval E27 - <i>Added in Staff Report Addendum 3, July 15, 2020</i>
17	O. Staff and Applicant Response to Public Hearing Written Comment - <i>Added in Staff Report Addendum 3, July 15, 2020</i>

### ***Testimony/Comments:***

Given the ongoing Covid-19 public health emergency and associated directives and proclamations issued by state and local officials, the public hearing for this matter was conducted on July 10<sup>th</sup> using an electronic audio-video communication portal coordinated by City staff, with call-in numbers and participation methods explained in public notices issued and posted on the city's website. All people who provided factual information were sworn and provided testimony under oath during the open-record public hearing, including, Edie Berghoff, Associate Planner for the City of Poulsbo, and the primary staff representative at the public hearing; Anthony Burgess, Engineer I for the City of Poulsbo's Engineering Department; Ron Cleaver, Jr., P.E., with RDCJR Engineering LLC, the applicant's agent and hearing representative; and Nicole Retana, a local resident who lives blocks away from the project site on Forest Rock Lane, who also submitted a written comment included in the record as part of *Exhibits H and O*.

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***Site Visit:*** Given testimony at the public hearing, about access, traffic, and existing developments near the project site, the Examiner visited the project site and surrounding road network on Tuesday, August 11<sup>th</sup>, without making contact with anyone in the area. As of the date of this Decision, the Examiner has not been advised of any requests to submit additional public comments. Accordingly, the Examiner is satisfied that the public has had a full and fair opportunity to participate in this hearing process, and is now fully informed on issues presented in this matter, despite the difficulties presented by the public health emergency situation and its impact on regular office hours and the like. The record for this matter is closed, and this Decision is now in order.

### **APPLICABLE LAW**

#### ***Jurisdiction.***

There is no dispute that relevant provisions of the Poulsbo Municipal Code expressly provide the hearing examiner with jurisdiction and authority to review most Type III land use matters, which includes Preliminary Plat and Planned Residential Development applications. See PMC 19.20.010(C) and Table 19.20.020.

#### ***Criteria for Approval of the pending Preliminary Plat Application.***

The City's approval criteria for a preliminary subdivision (which means the same thing as a preliminary plat) is found at PMC 17.60.040. As mandated by state law, the provisions of city codes addressing preliminary plat review for this project are substantially similar to state subdivision mandates found in RCW 58.17.110(2).

#### ***Findings required to approve Planned Residential Development.***

The City's code mandates that in approving a Planned Residential Development, the review authority must make specific findings, as set forth in PMC 18.260.140.

#### ***Burden of Proof.***

The applicant bears the burden of proof to establish by a preponderance of the evidence that their preliminary plat application is consistent with state law, city codes and standards. *Rule 3.9, HEx Rules of Procedure*. Any decision to approve or deny a Preliminary Plat must be supported by evidence that is substantial when viewed in light of the whole record. *See RCW 36.70C.130(1)(c)*.

## **ISSUE PRESENTED**

Whether a preponderance of evidence demonstrates that the applicant has satisfied its burden of proof to satisfy the criteria for Planned Residential Development and Preliminary Plat approval?

Short Answer: Yes, subject to conditions of approval.

## **FINDINGS of FACT**

Upon consideration of all the evidence, testimony, codes, policies, regulations, and other information contained in the file, the undersigned Examiner issues the following findings, conclusions and Decision approving the Calavista Planned Residential Development and Preliminary Plat as set forth below.

1. Any statements in previous or following sections of this document that are deemed findings of fact are hereby adopted as such and incorporated by this reference.
2. The property owner and applicant in this matter is Caldart Poulsbo, LLC (c/o Barry Margolese), based in Seattle, with Ron Cleaver, PE, from RDCJR Engineering, LLC located in Poulsbo, serving as the applicant's agent and hearing representative. (*Staff Report, page 5; Ex. A, Application materials*).
3. The project site is comprised of two adjacent parcels, located at 19700 Caldart Avenue SE (Tax Parcel No. 132601-3-065-2006), and 19840 Caldart Avenue SE (Tax Parcel No. 132601-3-003-2001). The existing home on the southern parcel will remain, within what will become Lot No. 28 of the proposed plat. (*Testimony of Ms. Berghoff; site plans*). The existing home on the upper parcel will be removed.
4. There is no dispute that the entire property is zoned RL, Residential Low density, which allows Single Family Residential uses like that proposed in the pending application.
5. The pending application is for approval of a Planned Residential Development (PRD) and Preliminary Plat application would authorize the subdivision and development of the applicant's 9.05-acre site into 43 single-family residential lots, with associated improvements including roads with available parallel parking, open spaces, recreational amenities, and new facilities for utilities and stormwater management. (*Staff Report; Exhibits A (Application materials), B (Plan set), C (Landscape plan), and D (PRD Home Design Elevations)*).
6. The Planning and Economic Development Department's Staff Report and Recommendation of Approval, shared with the Examiner in the week before the hearing, (*the*

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“*Staff Report*”), includes a number of specific findings and conditions that credibly establish how the underlying plat application satisfies provisions of applicable law, is consistent with the city’s Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines.

***Procedural background.***

7. The applicant submitted initial application materials for its proposed Calavista PRD and Preliminary Plat in May of 2019, with numerous requests for additional information made by staff and revisions submitted by the applicant during the thorough review process for this proposal (*Exhibit A, application materials; Staff Report, page 24, application timeline summary*). For any Preliminary Plat application, a neighborhood meeting is required before formal application submittal. For this project, the neighborhood meeting occurred on April 16, 2019. (*Staff Report, page 25*). Staff examined the application submittal and deemed the materials Technically Complete for purposes of vesting and review as of May 30, 2019. (*Staff Report, pages 24 and 25*). Staff issued a formal Notice of Application on June 7, 2019. (*Exhibit G-2*).

8. After reviewing the SEPA Checklist, application materials, design features, a traffic impact analysis prepared for the project (*Ex. E-15*) and other relevant environmental information regarding the proposal and its potential impacts on the surrounding area, the City issued its SEPA threshold determination for this project, which was a Mitigated Determination of Non-Significance (MDNS) issued on May 28, 2020, with a 14-day comment period. (*Ex. E-1*). The MDNS included specific mitigation measures, including without limitation provisions addressing erosion control; stormwater management; Endangered Species (salmon) protection; tree protection; historic and cultural preservation; transportation impact mitigation (proportionate) for the 10<sup>th</sup> Ave NE/Forest Rock Lane intersection; and school mitigation fees to address impacts on the North Kitsap School District. Notices related to the SEPA MDNS were issued in accord with applicable law, and no one offered any comments. (*Staff Report, page 24; Ex. G-3, notice confirmation materials*). All mitigation measures imposed by the MDNS are also included as specific Conditions of Approval for this project. (*See Conditions S-1 through S-10*).

9. By operation of WAC 197-11-545 (re: Effect of no comment), if a consulted agency does not respond with written comments within the time periods for commenting on environmental documents, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal as it relates to the consulted agency's jurisdiction or special expertise; further, lack of comment by other agencies or members of the public on environmental documents within the applicable time period shall be construed as lack of objection to the city’s environmental analysis. Again, the record establishes that the no one submitted any timely comments regarding the MDNS or appealed the determination.

10. Since that time, no one submitted comments or documentation that would serve as a basis to reopen the SEPA process. There have been no changes to the project that are likely to have any significant adverse environmental impacts, and there has been no showing that the applicant

misrepresented any pertinent facts or failed to make any material disclosures that would have relevance in the SEPA review process.

11. A copy of the Staff Report and a Notice of Public Meeting was issued at least 7 days prior to a Poulsbo Planning Commission meeting that occurred on June 23, 2020. The Staff Report confirms that all notices were published, posted and mailed in accord with applicable requirements. (*See Ex. G, copies of notices and confirmation of distribution, posting, publication*). Following their meeting, the Planning Commission voted unanimously to recommend approval of the pending Calavista PRD and Preliminary Plat project, subject to conditions of approval recommended in the Staff Report. (*See Exhibits K and L*).

12. Shortly thereafter, on July 10, 2020, the undersigned Hearing Examiner conducted a duly-noticed public hearing regarding this PRD and preliminary plat application, via an electronic communication portal coordinated by City staff, during which time applicant representatives, project-review staff, and interested members of the public were provided an opportunity to present input regarding the final project proposal, as shown on the most updated site plans and application materials. The Examiner was able to complete a site visit to the project site on August 11<sup>th</sup>, walking along some of the access routes shown in the plans, and personally observing existing conditions, the road system likely travelled by new residents, and adjacent properties, particularly those noted at the public hearing.

***Public hearing, key issues.***

13. During the public hearing, Ms. Berghoff summarized key portions of the Staff Report and how the pending application, with conditions, satisfies all relevant approval criteria.

14. The applicant's project engineer and designated agent, Mr. Cleaver, testified that the applicant accepts the analysis and recommendations provided in the Staff Report, including all proposed conditions. He described design considerations and plat features included to address stormwater management and water pressure, among other things. He acknowledged the applicant's obligations to pay fees addressing transportation and school related impacts, and indicated a willingness to work with Staff to address potential traffic calming measures on Caldart. Mr. Cleaver noted that schools are within about a mile of the project site, and new sidewalks and roads in the new plat will enhance safety for students who might walk to/from school; and that the project reflects consideration of the large lot owned by Mr. Ramirez that will be surrounded by the new plat.

15. Only one member of the general public appeared and spoke during the public hearing. Ms. Retana, who lives more than 300 feet from the project site, multiple blocks to the northwest of the site along Forest Rock Lane, generally complained about the public notice for the project, though she acknowledged that she saw a sign posted on the project site, and sent an email comment about the project to city staff, a copy of which is included in the record as part of Exhibits H (collection of written public comments) and O (response from Staff and Applicant to last few comments, submitted after the Staff Report was first issued). Ms. Retana's remarks focused on concerns with

traffic on her street, Forest Rock Lane. Two other written comments were transmitted from members of the public to include in the public hearing record shortly before the hearing started. Those documents, emails from Justin Nodolf and Greg Rinehardt, which raise concerns similar to comments from Ms. Retana, are also included as part of Exhibits H and O.

16. Before the hearing closed, the Examiner agreed to hold the record open to allow Staff and the applicant additional time to submit written responses to the last set of public comments, and any other issues raised during the public hearing. Those materials were transmitted to the Examiner as requested and are listed in the set of Exhibits included in the record for this matter.

17. As the Engineering staff explained in their response memo included in the record as part of Exhibit O: “as part of the review process, the Applicant was required to submit a full Traffic Impact Analysis (TIA) in accordance with the City’s concurrency requirements found in Poulsbo Municipal Code (PMC) 14.04. The TIA was submitted and reviewed by the City’s Engineering Staff and found to meet the requirements of PMC 14.04, City of Poulsbo Construction Standards, and subdivision criteria found in Poulsbo Municipal Code Ch. 17 and 18 with exception to the intersection of NE Forest Rock Lane and 10th Ave NE. The results of the TIA indicated that this intersection is an accepted Level of Service F per the Transportation Comprehensive Plan and will be further impacted by the development. The City has requirements for projects that worsen existing Level of Service F intersections to mitigate their impact. The City’s discussion regarding this topic can be found within the SEPA Staff Report in which a SEPA condition of approval was required.”

18. A specific condition of approval requires that mitigation be agreed upon before release for construction (Grading Permit release) and implemented prior to Final Plat. The Engineering Department determined that the project complies with applicable City of Poulsbo municipal code and construction standards as described in the Staff Report. (Ex. O).

19. Engineering Department Staff direct attention to the fact that NE Forest Rock Lane is identified as a Neighborhood Collector the City’s 2016 Transportation Comprehensive Plan. Roadways designated as collectors are designed to accommodate growth in an area and move traffic from residential side streets to arterials and collectors. The Collector designated roadways are one of the City’s tools to plan for and accommodate City growth required by the Growth Management Act. (Ex. O).

20. There is no dispute that, in 2019, the City completed a large roadway restoration project for Forest Rock Lane which included rebuilding the base of the roadway and regrading which brought accessible crossings up to current standard accessibility standards. As part of this project, the City successfully rebuilt, repaved, restriped, and retained existing traffic control measures. This project also added several radar feedback speed signs which are compliant with the Manual on Uniform Traffic Control devices (MUTCD), a manual which the City follows for roadway signage installations. The roadway is signed for the City’s adopted speed limit of 25 MPH and speeds are enforced by the Poulsbo Police Department. (Ex. O).



21. None of the public comments raised questions or presented evidence that would serve as a basis to deny this application, or to add additional conditions of approval. Written comments from neighbors to the south, in the recently completed Halden Glen development, mostly focused on issues that are addressed in existing development codes. Personal requests for mitigation features that go beyond development regulations – like keeping road stubs unopened, privacy fences and the like – were not supported by any expert reports, compelling evidence, or legal authority. There was no showing that environmental review should be reopened. “First in” to a previously undeveloped area serves as no basis to impose conditions on a neighboring development that complies with current city codes, especially requests that run counter to city policies and codes that encourage connectivity and linkage between neighborhoods. The Staff review confirms that the project has been designed or can be conditioned to comply with all applicable approval criteria. No one appealed the SEPA MDNS issued for this project, and all mitigation conditions included in the MDNS are also included as Conditions of Approval for the requested PRD and Preliminary Plat.

***As designed and conditioned, the Calavista PRD and Preliminary Plat application satisfies applicable approval criteria.***

22. The Staff Report fully details how the project is designed or can be conditioned to comply with applicable codes, including without limitation: critical area protections, density requirements, tree retention, stormwater management, utility infrastructure, payment of impact fees, and requirements for projects in the RL zone. (*Staff Report, pages 6 - 22*).

23. State subdivision statutes mandate that appropriate provisions be made for the public health, safety, and general welfare including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school. *See RCW 58.17.110(2)*. As noted by the applicant’s agent during the public hearing, public schools are located a short distance from the new plat, and sidewalks will be included within and around most of the plat to provide safe walking conditions for pedestrians and students in the area.

24. The SEPA Mitigated Determination of Non-Significance (MDNS) issued for this project included specific mitigation measures. No one submitted any comments questioning or challenging any part of the MDNS in a timely manner, and no one submitted the type of new information that would serve as a basis to withdraw the city’s SEPA threshold determination for this project.

25. No one appealed the SEPA threshold determination for this project, i.e. the MDNS. As a matter of law, the mitigation measures imposed in the MDNS stand unchallenged and shall also be included as conditions of approval issued as part of this Decision.

26. A preponderance of evidence in the record, including without limitation the summary of relevant reports and analyses provided in the unchallenged Staff Report, the Examiner’s site visit,

and testimony by the applicant's project engineer/agent, fully supports a finding that the proposed plat has been designed or can be conditioned to satisfy applicable approval criteria for the proposed preliminary plat, including without limitation the state subdivision statute found at RCW 58.17.110(2), and the City's approval criteria for a preliminary plat, found at PMC 17.60.040(A)(1-3)<sup>1</sup>, as set forth below:

1. The proposed preliminary subdivision conforms to the requirements of this title. *As designed and conditioned, the proposed preliminary subdivision conforms to the requirements of Title 17, Land Division. The City Engineer has reviewed the project for consistency with Chapter 12.02 PMC and supports approval of the preliminary plat subject to all conditions of approval. See Exhibit F, Engineering Department Staff Report Memo.*

2. The proposed preliminary subdivision conforms to the site requirements for the zoning district in which the property is located and/or other applicable zoning provisions. *As designed and conditioned, the proposed preliminary subdivision conforms to the requirements of Title 18 Zoning and will comply with the Comprehensive Plan. The site is designated "Residential Low" in the comprehensive plan and "Residential Low" on the Zoning Map and is being platted consistent with these designations. The project meets the Comprehensive Plan's goals of providing single-family housing according to established zoned densities in order to meet the City's population allocation under the Countywide Planning Policies and Growth Management Act.*

3. The proposed preliminary subdivision:

- a. Makes adequate provision for streets, roads, alleys, other public ways, and transit stops as required; and the proposed street system provides for the safe, orderly and efficient circulation of traffic. *See Exhibit F, Engineering Department Staff Report Memo; Staff Report, analysis on page 8.*
- b. Will be adequately served with water, sewer, storm drainage, and other utilities appropriate to the nature of the subdivision and meets all current and applicable standards. *See Exhibit F, Engineering Department Staff Report Memo; Staff Report, analysis on pages 8 and 9.*
- c. Makes adequate provision for parks, recreation, and playgrounds, as required. *Onsite recreation amenities include a big toy structure, a park area with a trail, picnic tables, and other features. In addition, the City has a Park Impact Fee Ordinance which requires the project developer to mitigate for their project's park impacts through payment of an impact fee. The developer is responsible for paying impact fees at rates in effect on the date of building permit issuance. See Staff Report, analysis on page 9.*
- d. Makes adequate provision for schools and school grounds, as required. *The North Kitsap School District receives a school impact fee from the project developer, as determined by the school district to help offset impacts from the new development's residents. Payment of the applicable school impact fee is a specific mitigation measure imposed using the City's SEPA authority, under the MDNS issued for the project and is also a Condition of Approval for this project.*

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<sup>1</sup> See Staff Report, Sec. IV, pages 8-10).

- e. Makes adequate provisions for sidewalks and other planning features that provide safe walking conditions for students who walk to and from school. *See Exhibit L, Engineering Department Staff Report Memo.*
- f. Makes adequate provisions for critical area protection pursuant to Chapter 16.20. *See section III of the Staff Report, re: Critical Areas, on pages 6-7, and analysis on page 9. The project makes adequate provisions for critical area protection.*
- g. Makes adequate provisions for fire and emergency access and protection. *See Exhibit F, Engineering Department Staff Report Memo.*
- h. Serves the public interest and makes appropriate provisions for the public health, safety, and welfare. *The proposed project has been mitigated and conditioned based on applicable city development regulations and SEPA authority, to prevent and address potential adverse impacts so the new PRD and preliminary plat will not be detrimental to the public health, safety and welfare of the city and its residents. Staff determined that the project will be compatible with neighboring properties and adjacent uses. Tree retention and critical area protections are included in this project design and conditions. Traffic mitigation and impact fees are required. Through the SEPA mitigation measures included in the MDNS, and conditions of approval, this project will be in the public interest and will made appropriate provisions for the public health, safety and welfare. See Ex. F, Engineering Dept. analysis.*

27. A preponderance of evidence in the record, including without limitation the summary of relevant reports and analyses provided in the unchallenged Staff Report, and testimony by the applicant's project engineer/agent, fully supports a finding that the proposed Planned Residential Development has been designed or can be conditioned to satisfy applicable approval criteria for the proposed PRD, including without limitation all required findings that must be made by the reviewing authority in approving such application, as provided in PMC 18.260.140(a)-(l)<sup>2</sup>, as set forth below:

- a. The proposal, through its design and submitted supporting documents, has clearly demonstrated it meets the stated purposes of this chapter.  
  
*The purpose of the PRD Ordinance is to encourage creative and superior site design in residential zones which also promotes the preservation of open space in such development by permitting greater flexibility in zoning requirements than is permitted by other chapters of the Poulsbo Zoning Ordinance, while ensuring compliance with the goals and policies of the Poulsbo Comprehensive Plan. The flexibility afforded by the PRD ordinance has allowed the Calavista PRD to be designed with smaller lot sizes and reduced setbacks, enabling inclusion of an attractive park, and the consolidation of accessible open space, all working with existing topography. The proposed design provides efficient street, utility, and public improvement layout through double loading streets with provision for future extension.*
- b. The proposal complies with all of the applicable provisions of this title, except those provisions from which deviation has been allowed under this chapter.

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<sup>2</sup> See Staff Report discussion, analysis, and recommended findings on pages 13-23.

*The proposal as designed, reviewed, and conditioned in the staff report meets all applicable provisions of the Zoning Ordinance with specific deviations as identified for planned residential developments. The proposal meets use, density and street tree requirements and is in compliance with additional standards and provisions of residential zoning districts, parking, and signage as reviewed and conditioned.*

- c. The proposal provides overall site design features through its conceptual architectural renderings for the entire project, and has included open space areas, pedestrian walkways and connections, recreational amenities, and outdoor features.

*The proposal includes information on the overall site design features, identified on the project drawing set (Exhibit B) as well as on the conceptual landscape plan (Exhibit C), and home siting and design (Exhibit D). Conditions of Approval require substantial compliance with the house designs submitted, which will be reviewed for compliance the time of building permit application (refer to Conditions of Approval P3-P5). Also, additional information on the site's landscaping and recreational amenities will be submitted with the final landscape plan (refer to Conditions of Approval P8-12).*

- d. The proposal would not impair the integrity and character of the zoning district in which it is to be located.

*The proposal will not impair the integrity and character of the Residential Low zoning district, because it has been designed and conditioned to meet the minimum PRD development standards and design criteria as discussed throughout the Staff Report.*

- e. The site is physically suited for the type and intensity of land use being proposed.

*This site is physically suited for the type and intensity of land use being proposed. The applicant has submitted the necessary critical area reports to ensure consistency with PMC Chapter 16.20, Critical Areas. In addition, the lot configuration, open space, and amenities have been sited to utilize the difficult topography of the site.*

- f. The proposal would be compatible with existing and future land uses within the general area in which the proposal is to be located by providing screening or buffering between parcels and providing consistency between any existing single-family subdivisions and the proposal.

*The surrounding properties are zoned Residential Low, same as the subject site. Properties across Caldart Avenue west and south are developed. Larger residential lots are located east and west. Six feet high sight obscuring fence as well as a 10-foot landscape tract along Caldart Avenue are provided. The project proposal as reviewed and conditioned provides appropriate screening and buffering through the proposed design.*

- g. The proposal would preserve natural features and critical areas and would preserve and incorporate existing significant stands of trees within the project design as much as possible.

*The site design reflects appropriate features intended to preserve and enhance natural features. Tree retention is appropriate for the project as proposed.*

- h. There are adequate provisions for water, sanitary sewer, and public utilities (electric, gas, phone) and services to ensure that the proposal would not be detrimental to public health and safety.

*The applicant has made adequate provisions for water, sanitary sewer and public utilities and services to ensure that the proposal will not be detrimental to the public health and safety. Water will be provided by the City of Poulsbo with connections and stubs for future*

*adjacent lands to be developed along Caldart Avenue, Halden Glen Court, and future extension of planned Road A. The City Engineer has determined there is adequate capacity for sanitary sewer. Other public utilities including electric and phone are available*

- i. There will be adequate provisions for public access to serve the subject proposal, as well as providing for neighborhood connectivity as appropriate and as required by the city.

*The proposal provides adequate provisions for public access to serve the subject site, with two access points to/from Caldera Avenue and Halden Glen Court. A future road connection to the east is also included in the plat design.*

- j. The proposal is consistent with the comprehensive plan and the city's adopted development standards.

*The proposed PRD is consistent with the City's Comprehensive Plan and adopted development standards. The subject development is located in the Residential Low zoning district and, as conditioned, is consistent with the City's development standards, infrastructure standards, and Comprehensive Plan.*

- k. There will not be significant unmitigated harmful effects upon environmental quality and natural resources.

*There will not be any significant harmful effects upon environmental quality and natural resources with the proposed development. Critical areas have been identified, reviewed, and mitigation provided with minimal impacts. The applicant will mitigate impacts to the City's park and transportation system by paying mitigation fees. The MDNS issued for the project stands unchallenged and includes a mitigation requirement for payment of school impact fees.*

- l. The proposed location, size and design of the proposal would not be detrimental to the public interests, health, safety or welfare of the city.

*The proposed site meets the PRD requirements for size and location. The design has been reviewed against the City's development standards and, as conditioned, meets the City's adopted ordinances for stormwater, critical areas, transportation, subdivision, and zoning. The MDNS for the project stands unchallenged.*

28. As noted above, the Staff Report and recommendation of approval includes a number of specific findings and proposed conditions that establish how the proposed PRD and Preliminary Plat application satisfies provisions of applicable law, is consistent with the city's Comprehensive Plan, and is designed or can be conditioned to comply with applicable development standards and guidelines. Except as modified in this Decision, all Findings, recommended findings, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned hearing examiner.<sup>3</sup>

29. Based on all evidence, exhibits and testimony in the record, the undersigned Examiner specifically finds that the proposed plat and PRD, as conditioned below, makes appropriate provision for the considerations detailed in applicable law, and that the public use and interest will be served by the preliminary plat and associated improvements.

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<sup>3</sup> For purposes of brevity, only certain Findings from the Staff Report and recommendation of approval are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings should not be viewed to diminish their full meaning and effect, except as modified herein.

30. The Conditions of Approval included as part of this Decision are reasonable, consistent with applicable law, supported by the evidence, and capable of accomplishment.

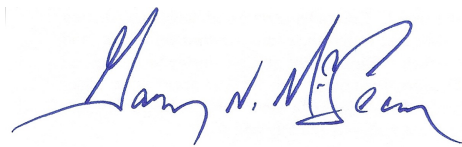
### **CONCLUSIONS of LAW**

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed Calavista Planned Residential Development and Preliminary Plat, as conditioned below, conforms to all applicable zoning and land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the application meets the standards necessary to obtain approval by the City.
2. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions of Law are hereby adopted as such and incorporate herein by reference.

### **DECISION**

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, and a site visit, the undersigned Examiner APPROVES the Calavista Planned Residential Development and Preliminary Plat, subject to the attached Conditions of Approval.

Decision issued: August 31, 2020.



Gary N. McLean  
Hearing Examiner for the City of Poulsbo

## **CONDITIONS OF APPROVAL**

### ***For the Calavista PRD and Preliminary Plat***

***File No. P-05-08-19-01***

*[NOTE: For convenience of the parties, these conditions are generally organized as they were presented with the Staff Report. The use of captions, numbering, or sections has no substantive effect regarding the full scope or applicability of any condition to various aspects of the project].*

#### **Index:**

- Sec. I -- General conditions added by the Hearing Examiner;**
- Sec. II -- MDNS Mitigation Measures included as Conditions of Approval;**
- Sec. III -- Planning and Economic Development Department Conditions of Approval;**
- Sec. IV -- Engineering Department Conditions of Approval; and**
- Sec. V -- Public Works Department's Conditions of Approval.**

#### **I. General.**

- A. Preliminary Plat approval shall be null and void if any condition enumerated herein is not satisfied.
- B. No construction or site development activities related to the plat may be undertaken until required land-use and engineering approvals become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.
- C. The applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and or amended by the City.
- D. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a preliminary plat does not limit the applicant's responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency permits/licenses/approvals shall be considered conditions for this project.
- E. The final engineering plans and submittals necessary to obtain final approvals for each phase of plat development and construction shall conform to all applicable provisions of the Poulsbo Municipal Code and the Conditions of Approval herein.

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## **II. MDNS Mitigation Measures included as Conditions of Approval.**

The following conditions are a restatement of mitigation measures imposed on the project as part of the unchallenged SEPA MDNS issued on May 28, 2020. (*Ex. E*). Each mitigation measure is also included as a condition of approval for the preliminary plat.

### **Earth**

- S1. Development of the site shall comply with the recommendations of the Preliminary Stormwater Drainage Report dated April 20, 2020 or as amended.
- S2. Development of the site shall comply with the recommendations of the Geotechnical Engineering Report dated October 25, 2019, as clarified December 13, 2019 and February 13, 2020 or as amended. Recommendations in the report shall be incorporated in final design plans. Recommendations include observation and testing during construction; control of surface and near surface water during and after development; design and construction considerations for footings and foundations, foundation drainage, floor slabs, rockery and retaining wall, asphalt and concrete pavements; and earthwork for site preparation, groundwater concerns, excavations, permanent cut and fill slopes, structural fill, utility trench fill, wet weather earthwork, erosion control, and stormwater. All roof, footing, and wall drains are to be connected to the site stormwater system.
- S3. Erosion control measures must be implemented immediately to reduce a serious erosion hazard of cut soils in sloping areas. Immediate implementation of erosion control measures must be included in the Temporary Erosion and Sediment Control (TESC) Plan.

### **Water**

- S4. All federal, state, and local permits must be obtained by the developer prior to construction drawing approval.
- S5. All Best Management Practices, avoidance, and minimization measures are required to be implemented with development of this proposal and in particular with stormwater outfall connection.
- S6. Maximum stormwater treatment is required for this project.

### **Plants**

- S7. Tree protection measures shall be consistent with the Arborist Report dated February 20, 2020 and peer review recommendations dated December 19, 2019 and May 13, 2020 or as amended, and the site plan drawing set tree retention plan dated February 24, 2020 or as amended.

### **Animals**

- S8. It shall be the responsibility of the applicant to take all necessary steps to prevent the incidental taking of protected species under the Endangered Species Act through habitat modification or degradation during the life of the project or development authorized by this permit or approval. The applicant shall notify the City through its Public Works Superintendent and the Federal agencies with responsibility for enforcement of the Endangered Species Act immediately, in the event of any damage or degradation to salmon habitat by or from the project or the development subject to this permit or approval. In any such case, the applicant shall, at its sole cost and expense, take all actions necessary to prevent the furtherance of the damage or degradation and to restore the salmon habitat as required by the Federal, State, and local agencies with jurisdiction.

### **Historic and Cultural Preservation**

- S9. While there are no known archaeological resources on this site, in the event archaeological artifacts are uncovered during construction, activity shall be halted immediately, and the State Historic Preservation Office and Tribes will be contacted.



### Transportation

- S10. The developer is to provide proportionate mitigation for its direct impact to the intersection of 10th Ave NE at Forest Rock Ln in the form of constructed improvement or proportional monetary contribution as agreed upon by the City of Poulsbo. Proposal of this mitigation shall be in the form of an updated Traffic Impact Analysis submitted with Final Engineering Drawing. Agreement with the City regarding appropriate mitigation measure shall be required prior to Grading Permit release and mitigation measure in place prior to Final Plat.

### Public Services

- S11. School mitigation fees are required for this project. Fees shall be paid prior to building permit issuance. Payment will be to the North Kitsap School District directly. Evidence of payment will be provided

### **III. Planning and Economic Development Department Conditions of Approval.**

- P1. Development of the site shall be in conformance with the plan set, elevations, and associated documents identified in Exhibits B-F, stamped approved in Planning File No. P-05-08-19-01 and subject to the conditions of approval contained herein.
- P2. Setbacks, building lot coverage, and building height shall be reviewed at time of building permit submittal. Building permit drawings are to clearly identify easements, setbacks, building lot coverage and building height.
- P3. The construction of all single-family homes in the proposed development shall substantially conform to the conceptual architectural drawings and elevations, and the identified location of each housing type on the lots, as shown in Exhibits B and D. This condition shall bind the applicant and any subsequent developers or assignees of the project. Comparison of the architectural drawings and house placement will occur at Building Permit submittal.
- P4. The Planning Department will review each building permit submitted for the Calavista PRD to determine compliance with 18.260.060.E and to ensure substantial compliance with the architectural renderings submitted. Side and rear facades facing public or private roadways in or adjacent to the project shall include façade treatments similar to the front façade.
- P5. The applicant shall submit a streetscape plan with the building permit application, which will show plot plans, elevations, and unit types for the adjacent properties. The plan shall ensure architectural variety is provided in accordance with PMC 18.260.060.E.2.e and E3. Building footprint and exterior design on adjacent lots is to be varied and will be reviewed with building permit. Reverse building plans or left/right “flip” of the footprint are considered the same footprint.
- P6. Site lighting is to be oriented and shielded to avoid direct glare onto adjacent properties, while providing adequate safety, including along the pedestrian trail in Tract D.
- P7. A setback of 10 feet from the 10 feet utility easement fronting all public and private roads is implemented as shown in Exhibit B, Sheet 2 to provide adequate parking in driveways for all lots and utility workspace away from structure foundations and provide space for street trees in front yards where necessary. Lots 11-13 to provide 40 feet setback from Lot 10 for privacy. Given slope constraints of the site and tree retention easement, need for home placement within typical building envelope and varied front setback will be reviewed with building permit.
- P8. Street trees are required along Caldart Avenue frontage spaced 40 feet on center and may be clustered along the frontage. Internal project Road A and B and Halden Glen Court street trees are required 30 feet on center and may be location adjusted around hardscape and utilities. Placement of street trees may be

within right-of-way or in residents front yards. Irrigation and maintenance shall be addressed in developments CCRs. Bonding for street trees and associated groundcover is required prior to final plat recording.

- P9. The proposed play structure in Tract D is to accommodate 20 or more individuals 5 to 12 years of age. A minimum of 1 bench is required near the play structure as proposed. Design information for the play structure is required submitted with the final landscape plan. A similar structure which meets the intent of the requirement may be proposed with the final landscape plan. Fencing between roads and park play area is required for safety. Fence design is to be provided with construction drawing.
- P10. The final landscape plan shall include details on the recreational amenities approved, including play area structure with nearby bench, 2 seating/picnic areas set in hard surface near open play areas, and hard and soft surface walking path sections connecting to right of way in multiple locations.
- P11. The development monument sign(s) shall be shown on the final landscape plan. A building permit is required for construction of the monument sign.
- P12. A final landscape plan and irrigation plan shall be submitted and approved prior to final plat. The final landscape plan shall address required street trees, any right-of-way landscaping, and any other areas in common ownership of the homeowners. Planting specifications shall be consistent with PMC 18.130, and are subject to approval by the PED Department. The final landscape plan shall be suitable for contractor bid, as this will be the basis for calculating the required two-year landscape maintenance bond. The plan shall include plant species, common name, number to be planted, and minimum size at time of planting. Street trees may be under separate landscape bond.
- P13. Bonding for landscaping is required prior to final plat recording. Landscape bond(s) will be required and based on current City requirements. Landscape bid estimates for material and labor shall match the final landscape plan, itemizing plant species, common name, number to be planted, and minimum size at time of planting. An estimate for material and labor matching the irrigation plan shall also be required.
- P14. Tree Retention:
- a. Construction drawings must show trees identified for retention and protective fencing detail.
  - b. The City Arborist shall review the final grading plan to verify planned grading will not damage retention trees. This review shall be at the cost of the applicant.
  - c. Protection fencing shall be inspected by the City Arborist prior to construction activity.
  - d. Tree and stump removal in the vicinity of protection trees shall be under the direction of an ISA certified arborist.
  - e. A Certified Arborist shall be on site when trenching for utility installation takes place in open space Tract D.
  - f. Installation of walking path meandering through retention trees in open space Tract D shall be observed by an ISA certified arborist to ensure minimal disruption of trees.
  - g. Protective fencing shall follow recommendations outlined in the tree retention report as reviewed by the City Arborist.
    - Tree Protection fencing should be erected prior to any site grading.
    - First, protect roots that lie in the path of construction. Approximately 90 to 95 percent of a tree's root system is in the top three feet of soil, and more than half is in the top one foot. Construction activities should be avoided in this area. Protect as much of the area beyond the tree's dripline as possible. Some healthy trees survive after losing half of their roots. However, other species are extremely sensitive to root damage even outside the dripline.

- Do not disturb the Critical Root Zone (CRZ). The CRZ is defined by its "critical root radius." It is more accurate than the dripline for determining the CRZ of trees growing in forests or that have narrow growth habits. To calculate critical root radius, measure the tree's diameter (DBH) in inches, 4.5 feet above the ground. For each inch, allow for 1 to 1.5 feet of critical root radius. If a tree's DBH is ten inches, its critical root radius is 10 to 15 feet.
- In addition to the CRZ, it is important to determine the Limits of Disturbance (LOD) for preserved trees. Generally, this approximates the CRZ however in previously excavated areas around the dripline the LOD may be smaller, or in the case of a tree situated on a slope the LOD may be larger. The determination of LOD is also subject to the tree species. Some tree species do better than others after root disturbance.
- Tree protection is advised throughout the duration of any construction activities whenever the critical root zone or leaf canopy may be encroached upon by such activities.
- The Critical Root Zone (CRZ) or LOD should be protected with fencing adequate to hinder access to people vehicles and equipment. Fencing should consist of continuous 4 ft. high temporary chain-link fencing with posts set at 10' on center or polyethylene laminar safety fencing or similar. The fencing must contain fencing signage detailing that the tree protection area cannot be trespassed on.
- Soil compaction is one of the most common killers of urban trees. Stockpiled materials, heavy machinery and excessive foot traffic damage soil structure and reduce soil pore space. The effected tree roots suffocate. When construction takes place close to the protected CRZ, cover the site with 4 inches of bark to reduce soil compaction
- Tree Protection fencing must be erected prior to soil excavation, boring, grading or fill operations. It is erected at the LOD. If it is necessary to run utilities within the LOD, the utilities should be combined into one cut, as practical. Trenching is not allowed in the LOD. In these areas, boring or tunneling techniques should be used. If roots greater than 1" diameter near the LOD are damaged or torn, it is necessary to hand trim them to a clean cut. Any roots that are exposed during construction should be covered with soil as soon as possible.
- During drought conditions, trees must be adequately watered. Site should be visited regularly by a qualified ISA Certified Arborist to ensure the health of the trees. Tree protection fencing is the last item to be removed from the site after construction is completed.
- After construction, has been completed, evaluate the remaining trees. Look for signs and symptoms of damage or stress. It may take several years for severe problems to appear.
- If fencing around portions of the CRZ of a tree to be retained are not practical to erect due to construction or obstacles, tree protection fencing should be placed three feet laterally from the obstruction (ex. three feet back of a curb, building, or other existing or planned permanent infrastructure.

P15. The construction of pedestrian trails and trail-related facilities, such as benches, shall be established as a nature path when located in the open space area; are not intended for motorized use; and are no wider than five feet, unless additional width is necessary for safety along a precipice, steep hillside, or other hazardous area. All trail construction shall be observed by an ISA certified arborist and avoid damaging significant and retention trees, including critical root zone of trees to be retained, and other habitat elements to the greatest degree possible. Trails shall be constructed in a manner that does not increase the risk of landslide or erosion. Trails should be pervious material, unless slope or erosion concerns dictate paving is necessary.

Stormwater controls may be required for paved trail areas and larger areas providing access to storm manholes.

- P16. A Tree Cutting and Clearing permit application shall be submitted and reviewed with the grading/construction application. The application form and associated fees are available on the PED Department website.
- P17. Perimeter fencing, sight obscuring 6 feet high, is required as follows:
- a. Along the rear Lot lines of Lots 1-2, and 9-24.
  - b. Along north, south, and east sides of property with assessor tax number 132601-3-064-2007.
  - c. Along project perimeter edges of Lots 11 and 24.
  - d. Along the east edge of Lot 10 for privacy.
  - e. Along open space tracts: A, north edge; B, south edge; C, north edge; F, east edge; and G, east edge.
  - f. Along the project boundary connecting open space Tracts F and G until future connection roadway is installed.
  - g. Fencing is not required in the 10' utility easement fronting lots.
- P18. The final project Covenants, Conditions and Restrictions (CC&Rs) shall be submitted with the final plat application and shall be recorded with final plat. The CCRs are subject to review and approval of the PED Department and City Attorney to ascertain if the documents are sufficient to assure compliance with the Conditions of Approval and SEPA Mitigations. Language shall also be included in the CCRs which requires notification to the City of Poulsbo PED Director of any amendments to the CCRs, and that the City shall have the authority to object to any modification that is inconsistent with any condition lawfully placed upon the subdivision by the City of Poulsbo.
- P19. CC&Rs shall include provisions that the Homeowner's Association (HOA) will own, maintain and enforce all open space tracts, retention trees and tree retention maintenance and easements, fences, recreation amenities, and all other applicable project condition(s) regarding ownership, maintenance and enforcement of all commonly owned elements.
- P20. Street tree maintenance, including irrigation, shall be identified in project CC&Rs.
- P21. In lieu of required RV storage, the applicant shall include a provision in the CC&Rs that addresses recreational vehicle parking, which shall be reviewed by the PED Department and the City Attorney prior to final plat approval and recording of plat documents.
- P22. Open space and amenities are to be located on the final plat with a note identifying project amenities are for the benefit of project owners and residents.
- P23. The face of the final plat shall include statement(s) that the project's HOA will own, maintain and enforce all open space tracts, retention trees and tree retention maintenance and easements, fences, recreation amenities, and all other applicable project condition(s) regarding ownership, maintenance and enforcement of all commonly owned elements. The City will not join the Homeowners Association as enforcers of the project's Covenants, Conditions and Restrictions.
- P24. Park impact fee is required with this project. Fee is determined at the time of building permit issuance according to current code requirement.
- P25. Modifications to preliminary subdivisions are reviewed under PMC 17.60.070 as currently adopted. Where significant deviation from the approved plan is proposed, the revision will be considered a major modification under the initial approval review authority.

P26. Within 5 years following the approval of the preliminary plat, or as otherwise stipulated in RCW, a final plat shall be submitted to the city for review and approval.

#### **IV. Engineering Department Conditions of Approval:**

##### **GENERAL**

E1. All water, wastewater, and stormwater facilities and streets shall be designed by a professional civil engineer licensed in the State of Washington. The applicant is responsible for the design and installation of the facilities. In the event there is a conflict between standards, the more restrictive standard shall apply as determined by the City Engineer.

E2. Land use permit approval shall not waive any requirements for the applicant to (a) obtain all appropriate permits; (b) pay all required fees and deposits; and (c) provide the City with adequate construction plans for approval which conform to City codes and standards. *Any utility plans, details, and drawing notes associated with the approved preliminary plat drawing are approved in concept only and are not considered approved for construction. Approval of the preliminary plat does not constitute approval of any construction drawings submitted with the preliminary plat approval documents.* Civil construction drawings must be submitted directly to the Engineering Department. For site plans, it is not acceptable to submit the civil drawings with the building plans to the Building Department.

E3. Construction plans for the following shall be reviewed and approved by the Engineering Department and Public Works Department: storm drainage and street improvements (including signage and pavement markings), sanitary sewer, water, and interim and permanent on-site erosion control systems. Prior to final plat approval the applicant shall: construct the required improvements per City standards and submit “as-built” drawings on mylar, paper, and electronically (compatible with the AutoCAD version utilized by the City at the time of submittal), dedicate easements, convey utility ownership as determined by the City, and post a maintenance bond(s).

E4. All plan review and project inspection and administration expenses shall be paid for at the developer’s expense consistent with the fee and deposit schedule adopted by City ordinance in effect at the time of construction. Plan review fees shall apply to the original drawing submittal and one re-submittal. Subsequent submittals will require payment of hourly charges. Fees are non-refundable. Deposits are required for payment of actual expenses incurred by Engineering Department staff for project administration and inspection. If the City Engineer determines that the magnitude or complexity of the project requires full or part-time on-site inspection in addition to the inspection by City staff, he may contract with a duly qualified inspector or hire additional personnel to provide inspection, testing, or other professional services for the City in connection with the construction. Deposits for Engineering Department services or outside professional services shall be paid in advance. The deposits are estimates and may require replenishment. Deposits may be required at the time of, or after, payment of any fees. Unused deposits are refundable.

E5. At any point in the process of application approval, construction plan review, or construction, the City Engineer may hire an independent consultant to review and comment on any, or all, utilities or sitework (for example, storm sewer, sanitary sewer, water, roads/streets, retaining walls, slopes) proposed by the applicant. The applicant shall make a cash deposit which will be used to pay for any independent review required by the City Engineer. If additional funds are required, the applicant shall immediately deposit the requested amount. Any unused funds will be refunded. Acceptance of the proposal and consultant comments shall be at the discretion of the City Engineer.

E6. The applicant shall adhere to all recommendations of the applicant's geo-technical engineer and the City's consultants as determined by the City Engineer.

E7. City of Poulsbo Construction Standards and Specifications are published on the City website within the Public Works/Engineering Department page. Unless specified otherwise within Conditions of Approval these

standards shall be followed.

E8. The civil construction drawings shall include plans for: grading, water, sewer, storm, streets, dry utilities, street lighting, signage/stripping, and composite wet utilities. Other plans may be required depending on site-specific conditions. Profiles and details for the wet utilities shall also be provided.

E9. Construction drawings will be rejected, without review, if the following drafting requirements are not met:

- a. Construction plan size shall not exceed 24"x36". The minimum drawing scale shall be 1:40 horizontal and 1:5 vertical. A larger scale may be required for legibility.
- b. Utilities shall be shown on plan/profile sheets. Each sheet shall have the corresponding plan/profiles on the same sheet with aligned stationing.
- c. Labels from the various overlapping AutoCAD layer shall be legible.
- d. All elements on the drawings shall be legible as determined by the City Engineer.

E10. All infrastructure shall be installed before Final Plat approval. If the applicant wishes to construct the project in phases, those phases must be defined as divisions in the preliminary plat approval. At the time of Final Plat approval for each division, that division shall be "stand alone". A division shall be considered "stand alone" if it contains complete utilities and access for the future residents of that division and is not dependent on other as yet un-built divisions for this purpose. Any infrastructure outside of the plat that is necessary to serve the division or allow it to function must be completed as well.

#### **CLEARING, GRADING, AND EROSION CONTROL**

E11. A Clearing and Grading Permit is required prior to any land-disturbing activity on the site (PMC 15.35). The permit may include restrictions as to the limits of any area or phase that can be cleared and graded at any one time or during any construction season. Additional restrictions may be placed on the permit for seasonal weather conditions. At any time, the City Engineer may restrict activities or access to portions of the site which would be detrimental to maintaining erosion and sediment control. A final geotechnical report shall be submitted with the construction drawings to provide recommendations for site grading and compaction. The report shall include a section with recommendations for wet weather and wet season construction methods.

#### **STORMWATER**

E12. All temporary and permanent storm system and erosion control measures shall be designed, constructed, maintained, and governed per the following, as adopted by the City of Poulsbo:

- a. All temporary and permanent storm system and erosion control measures shall be designed, constructed, maintained, and governed in accordance with PMC Chapters 12.02 and 13.17.
- b. City of Poulsbo standards and ordinances.
- c. All conditions of approval associated with any clearing and/or grading permits.
- d. Recommendations of the geo-technical engineer.

E13. Provision shall be made for the conveyance of any upstream off-site water that naturally drains across the applicant's site.

E14. The design of the detention system shall include appropriate access for maintenance as determined by the Public Works Department.

E15. The developer shall be responsible for providing regular and adequate maintenance and supportive maintenance records for the stormwater detention system for a minimum of two-years or until 80% of the residences have been completed, whichever is longer. At the end of this time, the City will inspect the system and, if acceptable, the City will take over maintenance and operation of the system.

E16. A spill control type oil/water separator shall be installed in the stormwater system at the most downstream point of the site.

E17. All secondary storm systems and easements shall be in compliance with City standards and remain privately maintained.

E18. Storm vault tracts shall be fenced per Public Works Department requirements.

### **SANITARY SEWER**

E219. Refer to Public Works Department comments for sewer connection requirements and construction standards.

### **WATER**

E20. Refer to Public Works Department comments for water construction standards, connection and looping requirements.

### **ALL UTILITIES**

E21. For utilities not within City right-of-way, the Public Works Director will determine if the City will assume ownership and maintenance of the utility.

E22. All water mains and all primary sanitary sewer and storm drainage mains shall be within public right-of-way or within easements dedicated to the City which meet the City's criteria for dimensions and access. All water, sewer, and storm service laterals and all secondary sanitary sewer and storm drainage lines located within easements or private property shall remain privately owned and maintained by the Homeowner's Association or applicable lot owners.

E23. Easements for access and maintenance of utilities determined to be City-owned shall be legally described and dedicated to the City on the Final Plat drawings. Easements shall be fifteen feet (15') wide minimum and comply with all City requirements. Additional width is required to accommodate turning radii, more than one utility or deep utilities. The City Engineer may require an all-weather surface, conforming to City standards, to be constructed over the easement to provide vehicular access for maintenance. Ownership of the pipe and appurtenances shall be conveyed to the City on the Final Plat drawings. The easements shall be shown on the construction drawings, "as-built" drawings, and Final Plat drawings.

E24. When private storm or sewer pipe is located in an easement that is adjacent and parallel with the property line between two lots/parcels, the easement shall be located entirely on one property and not split between the adjacent properties OR the utilities shall be off-set from the property line a minimum of 2 feet due to the high potential for fence posts to be placed on the property line.

E25. All street ends with the possibility for extension must have utilities stubbed out of the paved area a minimum of six feet or as directed by the City Engineer. Pavement and sidewalks shall be extended to within six feet of the property line at the end of the road. Appropriate barricades in compliance with current MUTCD standards shall be constructed at the road ends. See City Construction Standards for recommendations.

### **STREETS**

E26. Unless otherwise approved by the City Council, street sections shall conform to adopted City standards (refer to Developer's Guide – Section 2 – Street Standards).

E27. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of Road A and Caldart Ave NE at construction plan submittal. 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 certification shall also note necessary measures to correct and maintain the minimum sight triangle. (\*Corrected to reflect manifest error included in original version found in Staff Report. See Ex. N, Correction memo from Engineering Dept.)

E28. At time of construction plan submittal, the applicant shall submit site distance and stopping report at all intersections which have K values which do not meet the standard as stated in Section 2 of the City's current Construction Standards.

E29. All intersections, crosswalks at intersections, sidewalks and driveway drops shall meet current ADA standards. Construction drawings shall include sufficient intersection grade and slope details to determine ADA compliance.

E30. GMA Transportation Impact Fee Ordinance (PMC 3.86) has been approved by City Council. This establishes a transportation impact fee assessment per ADT payable at time of Building permit issuance as of the date of this memo. The impact fee is due at the time of each single-family home building permit and shall be calculated using the most current ADT for a single-family home identified in the ITE manual (10<sup>th</sup> edition identifies an ADT of 9.44) and multiplying the most current traffic impact fee established by PMC 3.86.090.

E31. Streetlights shall be installed per City of Poulsbo and Puget Sound Energy specifications. New streetlights shall be LED light fixtures.

E32. The applicant's engineer shall obtain approval of the postmaster and the City Engineer for all mailbox installation locations.

E33. As a condition of site plan development, the construction of frontage improvements is generally required in accordance with PMC section 17. The applicant is responsible for frontage improvements to Caldart Avenue NE and NE Halden Glen Court consistent with City Construction Standards. Additional dedication of ROW as shown on the plat may be required to complete the require frontage improvements.

E34. Future access roadway to the East from Road A is shown stubbed as required. Roadway end shall be marked following either MUTCD Section 3C.04 (OM4 series signs) or MUTCD Section 3F.01 (Type III Barricade). Incorporated into the MUTCD installations shall be an information sign with white background and black lettering that reads; "FUTURE STREET EXTENSION". All of the above elements shall appear as details on the site construction plans subject to Public Works Department approval.

E35. A temporary truck route has been established by the City Police Chief in accordance with PMC 10.24. The project's construction truck traffic shall use Caldart Ave NE to NE Lincoln Road. The project's construction truck traffic shall not use NE Forest Rock Lane or NE Hostmark St.

## **OTHER**

E36. All bonds, conveyances, and easements dedicated to the City shall be on the City's forms.

E37. A Public Property Construction Permit is required when connecting to City-owned utilities or performing other work within the City right-of-way or other public/City-owned property (PMC 12.08). The permittee shall be responsible for repair and/or restoration of any damage to City property (such as sidewalks, curbs, gutters, pavement, and utilities) that occurs as a result of operations under this permit.

E38. Shared driveways shall be dedicated easements or tracts benefiting the property owners served by the driveway. The face of the plat and the covenants shall state that the responsibility for maintenance of any shared driveway shall be the responsibility of the property owners served by the driveway.

E39. No rockeries/retaining walls may be constructed within the ten-foot (10') wide utility easement fronting all lots or within any other utility easement. No permanent structures of any kind are allowed within any utility easement. If construction, maintenance, repair, or reconstruction of any utility is required, the property owner shall be responsible for the removal and relocation of any permanent structure and plantings that were removed. Such relocation shall not conflict with City codes. The face of the plat shall state this requirement.

E40. Any agreements made between the applicant and another property owner related to utilities, easements, rights-of-way, or ingress and egress shall not conflict with City codes or ordinances. No agreements between the applicant and the property owner shall exempt either party from obtaining proper City approval for land use



activities regulated under the Poulsbo Municipal Code.

E41. The covenants shall state that no fence shall be placed within two feet of the back of any sidewalk.

E42. All public utilities shall be provided within the plat and shall include power, telephone, natural gas, and cable television. All utilities shall be placed underground (PMC 17.08.140). A ten-foot easement fronting all lots shall be dedicated for public utilities. The developer shall provide and install a minimum of one additional empty four-inch conduit trunk line with road crossings, in parallel with the aforementioned utilities, with appropriate termination points within junction boxes, for future telecommunications use (PMC 12.02.015). Ownership of the conduit shall be conveyed to the City on the Final Plat drawings. All existing and new utilities shall be underground. A plan sheet titled Dry Utilities shall be included with Construction Plan submittal and include all above mentioned utilities.

E43. The applicant shall be responsible for obtaining all required offsite easements and rights-of-way. Copies of all recorded easements shall be provided to the City Engineer.

E44. Demolition permit(s) are required through the building department for the removal of existing structures. Demolition permit(s) shall be acquired prior to issuance of grading permit.

#### **V. Public Works Department Conditions of Approval:**

##### **WATER**

PW1. All lots shall be connected to city water.

PW2. Service connection to the City water system shall be the responsibility of the property owner and shall comply with state and local design and development standards.

PW3. Water main looping shall be in compliance with City and Department of Health water design standards, City construction standards and WAC 246-290-230. The plat of Calavista will be required to connect and loop the water system to meet minimum pressure per Department of Health requirements and minimum fire flow per International Fire Code and City Comprehensive Water Plan requirements. The project will be required to construct a connection to the East High Zone.

PW4. Locate meters in a single bank when possible.

PW5. All water systems shall be publicly owned up to and through the water meter. All water mains and fire hydrants shall be located within public right-of-way or easements dedicated to the City of Poulsbo. Dedicated water lines shall be centered in an easement of 15 feet in width minimum.

PW6. Domestic and fire flow may share the same water line. The domestic service must exit the water line before the fire service.

PW7. Meters for all lots shall be located adjacent to public right-of-way.

PW8. Existing on-site well(s) shall be decommissioned per Department of Health requirements prior to commencement of site grading.

PW9. Individual PRV is required on the property owner side of the meter when pressure exceeds 80 psi.

##### **IRRIGATION**

PW10. Irrigation water shall come from a separate connection. Please show irrigation connection(s) on the utility drawing(s).

PW11. A double check valve assembly shall be installed within 18-inches of the downstream side of the water meter.

PW12. The double check valve assembly shall be tested by a "city approved" state certified tester upon

installation. A copy of the test report must be sent to the Public Works and Engineering Departments.

### **SEWER**

PW13. Development of the plat requires installation of gravity sewer to serve all lots. Connection shall be to the sanitary sewer system in Caldart Avenue.

PW14. Sewer stubs for extension of the gravity system shall be provided to adjacent properties where road connections are provided.

PW15. Sanitary sewer manholes shall not be located in roadway curb and gutter, sidewalk or landscaping strip adjacent to roadway. Sewer mains shall not be located generally parallel to and under road curb and gutter, sidewalk, or landscaping strip adjacent to the roadway.

PW16. All side sewers shall enter public right-of-way as gravity flow.

PW17. Service connection and alterations to the City sewer system shall be the responsibility of the property owner.

PW18. All septic systems on the subject properties shall be decommissioned according to Health District regulations prior to commencement of site grading.

### **SOLID WASTE**

PW19. Solid waste service shall be provided by the City of Poulsbo.

PW20. Garbage and recycle cans shall be placed curbside on the 'no parking' side of the road. The requirement shall be stated in the CC&R's prior to final plat approval.

PW21. Lots accessed by private easement will be required to place solid waste containers curbside on public right-of-way. The requirement shall be stated in the CC&R's prior to final plat approval.

### **GENERAL CONDITIONS**

PW22. Design: All water, wastewater, stormwater system facilities and streets shall be designed by a professional engineer registered in the State of Washington. Design and installation of the improvements shall be the property owner's responsibility.

PW23. Design and Development Standards: Design shall be subject to the following Standards:

- City of Poulsbo Utility Comprehensive Plan
- City of Poulsbo Design, Development and Construction Standards
- City of Poulsbo Municipal Code
- Washington State Department of Health Design Standards
- Washington State Department of Ecology's Criteria for Sewage Works Design
- American Public Works Association/Department of Transportation Standard Specifications

PW24. In the event there is a conflict between construction standards, the more restrictive standard shall apply as determined by the City Engineer.

PW25. No walls or structures shall be permitted in utility easements unless approved at time of construction review.

PW26. Placement of landscape plantings and/or street trees shall not interfere with utilities. Required landscape vegetation may need to be relocated in the final landscape plan. Landscape vegetation not required by city code may need to be relocated or removed from the final landscape plan.

### **SUBMITTAL AND APPROVAL**

PW27. The applicant shall be required to submit to the City for approval, the plans and specifications associated with design and construction of utility system improvements.

PW29. Utility systems include, but are not limited to, distribution and collection mains, pumping facilities, storage reservoirs, detention/retention facilities or any improvements to be dedicated to the city under a deed of conveyance.

PW30. Upon completion of the project, the developer shall supply the Public Works Department with a copy of drawings of record; these drawings shall be in hard copy form and in electronic form compatible with the most recent version of AutoCAD.

### **CONNECTION FEES AND ASSESSMENTS**

PW31. Utility service for the noted property is subject to application and payment of the applicable fees and assessments.

PW32. Utility connection fees are required paid at the time of building permit issuance and are based on the current fee schedule in effect at that time. Early payment and reservation of utility connection are not provided for in Poulsbo Municipal Code.

NOTE – In the event of a need for clarification regarding the application or interpretation of any term or condition of approval set forth above, either the applicant or the city can invoke the jurisdiction of the Hearing Examiner to issue a written clarification of a particular term or condition, through a written request detailing the matter, and the basis for such request. Such request shall be made as a Request for Reconsideration, submitted within ten (10) calendar days of the date this Decision is issued.

## **Notice of Rights to Request Reconsideration or Appeal This Decision**

### ***Reconsideration –***

Sec. 2.22 of the Poulsbo Hearing Examiner Rules of Procedure reads as follows:

#### ***“Reconsideration –***

(a) The Hearing Examiner may reconsider a decision on an application, if it is filed in writing within 14 calendar days of the date of issuance. Designated parties to the appeal who participated in the hearing may have standing to seek reconsideration. Any request for reconsideration shall be served on all parties of record and to any party’s designated representative or legal counsel on the same day as the request is delivered to the Hearing Examiner. The Examiner will seek to accept or reject any request for reconsideration within 3 business days of receipt. If the Examiner decides to reconsider a decision, the appeal period will be tolled (placed on hold) until the reconsideration process is complete and a new decision is issued. If the Examiner decides to reconsider a decision or recommendation, all parties of record shall be notified. The Examiner shall set a schedule for other parties to respond in writing to the reconsideration request and shall issue a decision no later than 14 calendar days following the submittal of written responses. A new appeal period shall run from the date of the Hearing Examiner’s Order on Reconsideration.”

### ***Appeal –***

PMC 19.70.020 explains that all decisions of the hearing examiner on Type I and II appeals, and all decisions of the hearing examiner on Type III permits may be appealed to the city council. (See definition of “permit application” in PMC 19.10.030, and Table 19.20.020, where “preliminary subdivision/plat” is listed as a permit type). The city council will make a final decision on such matters in a closed record appeal proceeding in which no new evidence may be submitted. The deadline and filing requirements for appeals are detailed in the city’s code, including without limitation PMC 19.70.020.

**NOTE:** The Notice provided on this page is only a short summary, and is not a complete explanation of fees, deadlines, and other filing requirements applicable reconsideration or appeals. Individuals should confer with advisors of their choosing and review all relevant codes, including without limitation the city code provisions referenced above and the Land Use Petition Act (Chapter 36.70C RCW) for additional information and details that may apply.