



## **Hearing Examiner Staff Report and Recommendation**

**Report Date:** January 7, 2021  
**Hearing Date:** January 14, 2020

**Application Submittal Date:** December 14, 2020  
**Application Complete Date:** December 15, 2020

**Project Name:** Port Gamble Development Agreement  
**Type of Application:** Permit Type-IV Development Agreement  
**Permit Number:** 20-05874

### **Project Location**

4790 NE State HWY 104  
Poulsbo, WA 98370  
Commissioner District #1

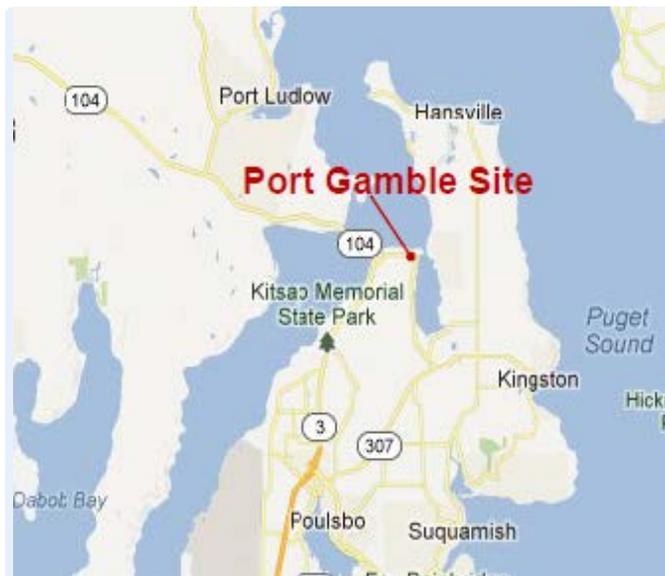
### **Assessor's Account #**

(Multiple Tax Accounts, see attached)

### **Applicant/Owner of Record**

Olympic Property Group, LLC  
Linda Barry-Maraist  
199950 7th Ave. NE Ste. 200  
Poulsbo, WA 98370

### **VICINITY MAP**



### **Recommendation Summary**

Approval subject to conditions listed under section 10 of this report.

#### **1. Background**

The current proposal is for a Development Agreement (DA) between Kitsap County and Olympic Property Group, LLC (OPG), in accordance with the Port Gamble Redevelopment Plan, Preliminary Plat/Performance Based Development (hereafter collectively PBD), and Shoreline Permit (SSDP). Kitsap County Code (KCC) 21.04.220 and RCW 36.70B.170 et seq. authorizes local governments to enter into development agreements with property owners for land use regulatory purposes. OPG seeks to redevelop the historic town of Port Gamble pursuant to KCC Title 17 and Port Gamble Rural Historic Town standards, through a PBD and Preliminary Subdivision with multiple phases (File 13-00165). This proposal was also reviewed under the SSDP requirements (File 13-00164) included in the draft and final EIS through chapter 197-11 WAC. The project would preserve Port Gamble's historical resources while providing additional residential, commercial, and retail development and updating services and amenities. Specifically, the project proposes 151 lots for residential development of various types, 24 future development tracts for commercial, educational, other non-residential development, cottage and multi-family residential, and 57 tracts for parks, passive use or natural open space.

The project involves construction of private roads, stormwater treatment and detention control facilities, and other supporting facilities. The project includes preservation of rural and historic character, and open space that includes streams, wetlands and associated buffers. The project proposal is vested to adopted regulations in effect on January 17, 2013, consistent KCC 21.04.150 Vesting. The Kitsap County Hearings Examiner held a public hearing per KCC 21.04.080 on the proposed PBD and SSDP on December 17, 2020.

Consistent with KCC 21.04.220(C) and RCW 36.70B.200, the public hearing was delegated to the Hearing Examiner via Resolution 191-2020 on December 14, 2020. Under KCC 21.04.220, the Hearing Examiner is to consider the proposal, staff recommendations and public testimony and prepare a recommendation to the Board of County Commissioners, specifically addressing the criteria in KCC 21.04.220(D), regarding the proposed DA. The Board will then consider the Hearing Examiner's recommendation when deciding whether to approve the Development Agreement.

## **2. Project Request**

The request is for approval of a DA that vests development standards for the project for a period of up to 15 years. The DA also sets forth the parties' intent that the FEIS satisfies all SEPA requirements for the project, including any subsequent permit approvals needed to implement the project, to the extent that the impacts are covered by the FEIS.

The DA is authorized by RCW 36.70B.170 through 36.70B.210, and Kitsap County Code 21.04.220. The DA is an agreement that guides the future review and build-out of the project and ensures that the project will be reviewed consistently during the life of the project, not to exceed 15 years.

In Section 1, the DA sets forth the scope of the project consistent with the applications submitted and reviewed by the Hearing Examiner at the December 17, 2020 hearing for the permits.

Section 2 would establish vesting for the project to Kitsap County's substantive land use development codes in effect on January 17, 2013, the date of the PBD, subject to certain exceptions set forth in Section 2.2. The exceptions include building and fire codes and fees, as well as any new development standards that are specifically applicable and the parties agree to apply. The 2013 codes would apply to any future permit (aka implementing approval) that OPG submits to carry out the project, e.g., conditional use permits, administrative conditional use permits, binding site plans, site development activity permits, and building permits.

Section 3 establishes the term of the DA to be a maximum of 15 years. There is no limitation in state law or local code as to duration and this time frame was selected to eliminate uncertainty in long-term planning and provide for the orderly development of the project on a comprehensive basis while enabling OPG to respond to economic cycles appropriate for development.

The last substantive section of the DA, Section 5, outlines the EIS that was completed for the project to satisfy the SEPA analysis requirement. Impacts of the project and mitigation measures were accounted for and incorporated into the recommended conditions for the

project permits. The DA asserts that it is the intent of the parties that the EIS will satisfy all SEPA requirements for future permits needed to fully build out the project but notes that such will only be to the extent that the impact is addressed in the EIS. Attachment D to the DA outlines the procedures for SEPA review of future implementing approvals, including when new threshold determinations, addendums or a SEIS is required.

### **3. SEPA (State Environmental Policy Act)**

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS, is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period occurred concurrent with the Notice of Application dated December 19, 2020 (Exhibit 3). A Determination of Nonsignificance (DNS) was issued on December 30, 2020 (Exhibit 4) after concluding that the DA does not have a probable significant adverse impact on the environment.

### **4. Physical Characteristics**

The Port Gamble Redevelopment site is approximately 318.24 acres of land that includes waterfront property bordered by Port Gamble Bay to the east, Hood Canal to the north, and forest land to the south and west. The existing development on the town site is a mix of residential and commercial land uses. The northern area includes the historic town of Port Gamble, which has been designated a National Historic Landmark District. The historic town consists single-family residences, open space (active and passive), a cemetery, and a downtown area with shops, commercial business, and restaurants. Along the waterfront in the northeast corner of the historic town is the former location of the lumber yard and several docks, referred to as the mill site. The mill site is a flat, 28-acre low-lying area formerly used as lumber mill and port to ship logs. Pope Resources/Olympic Property Group performed a two-year cleanup operation of the mill site and Port Gamble Bay removing 8,592 pilings, 1.3 acres of over-water structures, docks dredged 110,000 cubic yards of wood waste and sediment, places 200,000 tons of clean cap and cleaned up 106 acres of Port Gamble Bay. This area contains an environmental lab, kayak business and cement slabs.

The sites topography consists of flat to moderate slopes through the town with steep slopes at the northern and eastern edge sloping down 40 feet to the shoreline. Steep slopes within the stream ravine of Machias Creek. are present. The existing vegetation on the site varies from large tracts containing conifers and deciduous trees and undergrowth, to large grassy areas and to landscaped developed areas. The Port Gamble site contains a total of 17 wetlands (Wetlands

A thru Q) and 5 streams (Machias Creek and Streams 1 thru 4).

### **5. Policies and Regulations Applicable to the Subject Proposal**

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016

The Local Project Review Act, RCW 36.70B.170

Kitsap County Code (KCC) Chapter 21.04.220 Development agreements

### **Hearing Examiner Review**

Pursuant to KCC 21.04.220, the Kitsap County Board of County Commissioners found that it was in the interest of the public and efficiency of the land use process for the Kitsap County Hearing Examiner to hold a public hearing on the proposed DA and that the Hearing Examiner make a recommendation to the Board of County Commissioners based upon his review of the proposal, the staff recommendations, and testimony regarding the proposal. The Hearing Examiner may recommend approval, deny, or approve the application with conditions to the Board of County Commissioners. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner are enumerated in KCC Chapter 2.10 Hearing Examiner.

*RCW 36.70B.170 Development agreements — Authorized.*

#### RCW 36.70B.170

(1) A local government may enter into a Development Agreement with a person having ownership or control of real property within its jurisdiction. .... A DA must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A DA shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW.

*Staff Comment: The DA does set forth provisions for vesting the approved PBD and SSDP for up to 15 years and addresses future SEPA review. The DA is consistent with KCC Title 21 criteria addressed later in this report.*

(3)(d) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;

*Staff Comment: Design standards must be incorporated at time of development and demonstrated with building and development permit applications; height is limited via KCC*

*Title 17 Zoning; drainage and water quality will be provided in accordance with KCC Title 12 Stormwater Drainage and reviewed through development permit applications; landscaping and other development features are shown in the PBD and may be supplemented via development permit applications. Attachment C shows vested regulations for the DA.*

(h) Review procedures and standards for implementing decisions;

Staff Comment: *The report, proposed DA, and legislative procedures address standards and procedures for the DA; KCC Title 21 Land Use and Development Procedures outlines SDAP and other development permit application approvals; KCC Title 14 Building and Construction speak to building permit application procedures and approval.*

(i) A build-out or vesting period for applicable standards; and

Staff Comment: *The vesting period requested is up to 15 years.*

(j) Any other appropriate development requirement or procedure.

Staff Comment: *The DA also addresses construction standards, and amendments to the redevelopment plan (PBD and SSDP) and (in the future, if warranted) the DA.*

(4) The execution of a Development Agreement is a proper exercise of county and city police power and contract authority. A Development Agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A Development Agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Staff Comment: *Based on this subsection, Kitsap County has authorized execution of a DA within pursuant to KCC Title 21 Land Use and Development Procedures. The DA acknowledges this authority and includes language in Section 2.2.4 reserving authority to apply new or different regulations when required to protect against serious threat to public health and safety. It does not obligate any party to fund or provide services outside that which is required by any permit approval.*

#### **KCC Title 21.04.220 Development agreements.**

- A. Purpose and Authority. As authorized by, and in accordance with, Chapter [36.70B](#) RCW, Kitsap County has sole discretion to enter into development agreements where it is shown to be in the public interest. Development agreements are an optional, Type IV legislative process subject to the procedures set forth in this chapter.
- B. Content of Agreement. A Development Agreement must, at a minimum, set forth the following elements:
1. The names of the parties.
  2. A precise legal description of the property covered by the development agreement.
  3. The development standards that shall apply.

4. The term of the development agreement, which shall be the duration in which all development proposed under the agreement shall be completed. Unless amended, all approvals and permits shall expire upon the date of termination.
5. A statement consistent with RCW [36.70B.190](#) that during the term of the development agreement, it is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement.
6. That it is compliant with RCW [36.70B.170](#) through [36.70B.210](#) and the KCC.

*Staff Comment: The DA has met these criteria 1 through 6 as shown in Attachment A (Development Agreement).*

- C. Public Hearing. The board of county commissioners may approve a Development Agreement by resolution or ordinance after a public hearing, which may be delegated to the planning commission or hearing examiner as appropriate.

*Staff Comment: The Board of Commissioners has delegated the public hearing to the HE by Resolution 191-2020.*

- D. Decision Criteria. The board of commissioners may adopt a Development Agreement by resolution, with findings that:

1. The proposed agreement is consistent with the goals and policies of the Comprehensive Plan;

*Staff Comment: There is no goal or policy prohibiting the County from entering an agreement to extend to a developer the right to vest to certain development regulations and no goal or policy that runs counter to the process for SEPA review set forth in the DA.*

2. The proposed agreement is consistent with the local development regulations; provided, that standards may be modified only if the board makes further findings that:

- a. Variation of the standard provides a public benefit; and
- b. The proposal subject to the modified standard remains consistent with the Comprehensive Plan; and
- c. All adverse impacts are mitigated;

*Staff Comment: All the decision criteria have been satisfied. No variations to standards are proposed. As to adverse impacts, SEPA Staff determined that the DA would not have any significant adverse environmental impacts.*

3. The proposed agreement provides for adequate mitigation of adverse environmental impacts; provided, that if the development is not defined at the project level, the agreement shall provide a process for evaluating and appropriately mitigating such impacts at the time of project development; and

Staff Comment: A DNS was issued for this DA on December 30, 2020 as no significant adverse environmental impacts were identified.

4. The proposed agreement reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Staff Comment: Section 2.2.4 reserves this authority.

E. Concurrent Rezone. If the proposal requires a zoning map change, the zoning change shall be adopted by ordinance concurrently with the resolution approving the development agreement.

Staff Comment: No rezone is requested.

F. Recording/Binding Effect. An approved DA must be recorded with the county auditor. During the term of the development agreement, the agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the property covered by the development agreement.

Staff Comment: The approved DA will be recorded with the Kitsap County Auditor.

G. Amendments. Any amendments to an approved DA must be approved by the board of commissioners and property owner following a public hearing on the amendment.

Staff Comment: Amendments are discussed in the DA and comply with this requirement.

H. Appeals. There are no administrative appeals of development agreements. Appeals of development agreements shall be as required by law.

Staff Comment: A DA is type IV decision. Appeals will be as otherwise required by law.

The scope of the project, including the PBD and SSDP, is unchanged by the DA and the terms, conditions and mitigation conditions of any HE approval will not be changed. The DA establishes the development standards that will apply to and govern the development of the property for the duration specified in the agreement and by doing so requires compliance with those standards, subject to exceptions noted above. SEPA has been completed for the project and the DA does change any mitigation requirements. It does, however, establish a clear process for SEPA review of future permits to ensure that any currently unknown impacts of the project will be identified, analyzed and mitigated as required by law.

### **Staff Communication:**

For documents and special reports, see the project index to be included into the public record for the Development Agreement.

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 21.04	Land Use and Development Procedures

#### 6. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-6.

Exhibit #	Document	Dated	Date Received
1	Kitsap County Resolution 191-2020 – Delegation to Hearing Examiner	12/14/2020	12/14/2020
2	Port Gamble Development Agreement	12/12/2018	12/16/2020
3	Notice of Application	12/19/2020	
4	SEPA Determination of Non-Significance	12/29/2020	
5	Notice of Public Hearing	12/30/2020	
6	Revised Port Gamble Development Agreement	01/05/2021	01/05/2021

#### 7. Public Outreach and Comments

Pursuant to KCC Title 21, Land Use and Development Procedures, the Department gave proper public notice 800 feet around the project area for the Development Agreement for the Preliminary Plat, Performance Based Development and Shoreline Substantial Development Permit. To date the Department has not received public comments on the DA proposal.

#### 8. Review Authority

The Hearing Examiner has review authority under KCC 21.04.220(C) and Resolution 191-2020.

#### 9. Findings

1. The Development Agreement is consistent with the goals and policies of the Comprehensive Plan.
2. The Development Agreement is consistent with all applicable regulations.
3. The Development Agreement does not need mitigation as no adverse environmental impacts were identified.

The Development Agreement includes the appropriate language to reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

#### 10. Recommendation

Based upon the analysis above and the decision criteria found in KCC 21.04.220 and RCW 36.70B.170, the Department of Community Development recommends that the Board of County of Commissioners for the Development Agreement addressing the Port Gamble Preliminary Plat/PBD and SSDP.

**Report prepared by:**



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Jeff Smith, Staff Planner / Project Lead

01/07/2021

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Date

**Report approved by:**



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Scott Diener, Department Manager / Supervisor

01/07/2021

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Date

**Attachments:**

- Attachment A – Port Gamble Site Plan
- Attachment B – Kitsap County Assessor's Tax Account List
- Attachment C – Draft Development Agreement

**Cc:**

APPLICANT/OWNER: Olympic Property Group, [lmaraist@orminc.com](mailto:lmaraist@orminc.com); [jchadwell@orminc.com](mailto:jchadwell@orminc.com); [sfoster@orminc.com](mailto:sfoster@orminc.com); Pope Resources, [mverlander@orminc.com](mailto:mverlander@orminc.com)  
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[Al.Fure@deainc.com](mailto:Al.Fure@deainc.com)  
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[cdegeus@co.kitsap.wa.us](mailto:cdegeus@co.kitsap.wa.us); [jdean@co.kitsap.wa.us](mailto:jdean@co.kitsap.wa.us); [DForte@co.kitsap.wa.us](mailto:DForte@co.kitsap.wa.us);  
[mmohr@co.kitsap.wa.us](mailto:mmohr@co.kitsap.wa.us); [pnettleton@co.kitsap.wa.us](mailto:pnettleton@co.kitsap.wa.us); [ngraves@co.kitsap.wa.us](mailto:ngraves@co.kitsap.wa.us)  
KITSAP PUBLIC UTILITY DISTRICT: [smelcer@kpud.org](mailto:smelcer@kpud.org); [mark@kpud.org](mailto:mark@kpud.org)  
NAVY: [lynn.wall1@navy.mil](mailto:lynn.wall1@navy.mil);  
KITSAP CO. FIRE MARSHAL, DCD, DSE: [dlynam@co.kitsap.wa.us](mailto:dlynam@co.kitsap.wa.us);  
[tturner@co.kitsap.wa.us](mailto:tturner@co.kitsap.wa.us); [jrimack@co.kitsap.wa.us](mailto:jrimack@co.kitsap.wa.us); [asilva@co.kitsap.wa.us](mailto:asilva@co.kitsap.wa.us);  
[SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us); [SAlire@co.kitsap.wa.us](mailto:SAlire@co.kitsap.wa.us)  
NK SCHOOL DIST: [communications@nkschools.org](mailto:communications@nkschools.org); [jrhoads@nkschools.org](mailto:jrhoads@nkschools.org);  
[finance@nkschools.org](mailto:finance@nkschools.org); [wwilson@nkschools.org](mailto:wwilson@nkschools.org)  
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[smith@nkfr.org](mailto:smith@nkfr.org)  
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CITY OF POULSBO PLANNING DIRECTOR: [kboughton@cityofpoulsbo.com](mailto:kboughton@cityofpoulsbo.com)  
WSDOT, DOE, DFW, DAHP: [sepa.reviewteam@doh.wa.gov](mailto:sepa.reviewteam@doh.wa.gov); [sepa@dahp.wa.gov](mailto:sepa@dahp.wa.gov);  
[Chris.Waldbillig@dfw.wa.gov](mailto:Chris.Waldbillig@dfw.wa.gov); [Brittany.Gordon@dfw.wa.gov](mailto:Brittany.Gordon@dfw.wa.gov);  
[adam.brown@dfw.wa.gov](mailto:adam.brown@dfw.wa.gov); [sepadesk@dfw.wa.gov](mailto:sepadesk@dfw.wa.gov); [nam.siu@dfw.wa.gov](mailto:nam.siu@dfw.wa.gov); [or-sepa-review@wsdot.wa.gov](mailto:or-sepa-review@wsdot.wa.gov);  
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TRIBES: [crossi@pnptc.org](mailto:crossi@pnptc.org); [aosullivan@suquamish.nsn.us](mailto:aosullivan@suquamish.nsn.us); [dlewarch@suquamish.nsn.us](mailto:dlewarch@suquamish.nsn.us);  
[romac@pgst.nsn.us](mailto:romac@pgst.nsn.us); [sphillips@pgst.nsn.us](mailto:sphillips@pgst.nsn.us); [rlumper@skokomish.org](mailto:rlumper@skokomish.org);  
[emarbet@squaxin.us](mailto:emarbet@squaxin.us); [russ.ladley@puyalluptribe-nsn.gov](mailto:russ.ladley@puyalluptribe-nsn.gov)  
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[ewc1035@comcast.net](mailto:ewc1035@comcast.net); [Greg.Griffith@dahp.wa.gov](mailto:Greg.Griffith@dahp.wa.gov); [romac@pgst.nsn.us](mailto:romac@pgst.nsn.us);  
[lynn@newmotion.com](mailto:lynn@newmotion.com); [cmho@cinarc.org](mailto:cmho@cinarc.org); [aosullivan@suquamish.nsn.us](mailto:aosullivan@suquamish.nsn.us);  
[johnwillett@embargmail.com](mailto:johnwillett@embargmail.com); [mhoffman@reidrealestate.com](mailto:mhoffman@reidrealestate.com); [krigsmann83@msn.com](mailto:krigsmann83@msn.com);  
[rossjr@wavecable.com](mailto:rossjr@wavecable.com); [marygleysteen@gmail.com](mailto:marygleysteen@gmail.com); [lucretiawinkler@yahoo.com](mailto:lucretiawinkler@yahoo.com);  
[whalemail@waypoint.com](mailto:whalemail@waypoint.com); [davehaley@comcast.net](mailto:davehaley@comcast.net); [itroup4435@aol.com](mailto:itroup4435@aol.com);  
[bigdog5678@hotmail.com](mailto:bigdog5678@hotmail.com); [plex2md@yahoo.com](mailto:plex2md@yahoo.com); [berthj@centurytel.com](mailto:berthj@centurytel.com);  
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[amyjoettcher@yahoo.com](mailto:amyjoettcher@yahoo.com); [scalpaca@msn.com](mailto:scalpaca@msn.com); [kbeebe9791@gmail.com](mailto:kbeebe9791@gmail.com);  
[robertsmaus@gmail.com](mailto:robertsmaus@gmail.com); [jbgillickmd@gmail.com](mailto:jbgillickmd@gmail.com); [bbmccain@comcast.net](mailto:bbmccain@comcast.net);  
[omc3032000@gmail.com](mailto:omc3032000@gmail.com)

Kitsap County Health District, MS-30

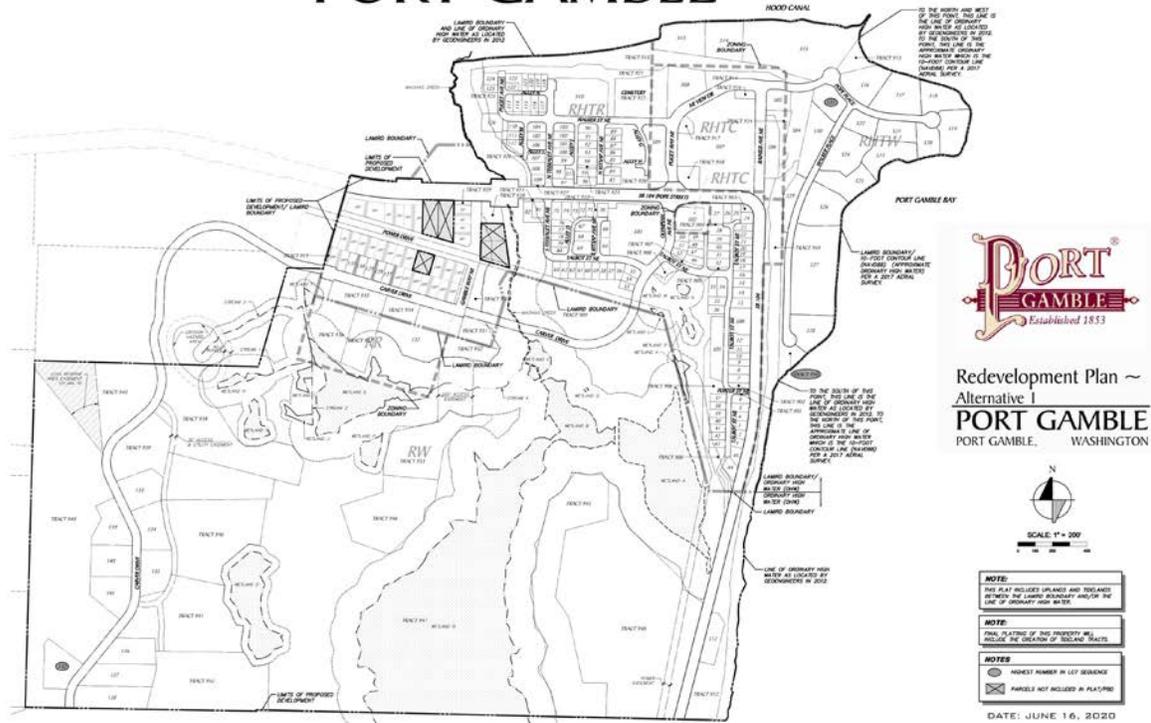
Kitsap County Public Works Dept., MS-26

DCD

DSE

### Site Plan Attachment A

# PORT GAMBLE



**Attachment B**

**Kitsap County Assessor's Tax Account List:**

052702-3-003-2009  
052702-3-001-2001  
052702-3-001-2308  
062702-4-002-2007  
062702-4-003-2006  
062702-4-004-2005  
062702-4-005-2004  
062702-4-006-2003  
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072702-1-003-2001  
072702-2-003-2001  
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072702-2-029-2009  
082702-2-030-2006  
082702-2-001-2000  
082702-2-003-2008  
082702-2-003-2107

**Attachment C**

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**After Recording Return to:**

OPG PORT GAMBLE LLC  
 19950 7<sup>th</sup> Avenue NE, Suite 200  
 Poulsbo, WA 98370  
 Attn: Jon Rose

**DEVELOPMENT AGREEMENT FOR PORT GAMBLE RURAL HISTORIC TOWN**

<b>Grantor(s):</b>	Kitsap County OPG Port Gamble LLC
<b>Grantee(s):</b>	Kitsap County OPG Port Gamble LLC
<b>Abbreviated Legal Description:</b>	052702-3-003-2009; 052702-3-004-2008; 062702-4-002-2007; 062702-4-003-2006; 062702-4-005-2004; 062702-4-006-2003; 072702-1-003-2001; 072702-1-005-2009; 072702-1-006-2008; 072702-1-007-2007; 072702-1-014-2008; 072702-1-019-2003; 072702-1-020-2000; 072702-1-021-2009; 072702-2-029-2009; 072702-2-030-2006; 082702-2-003-2008; 082702-2-030-2107
<b>Additional legal description:</b>	See Attachment A
<b>Assessor’s Property Tax Parcel Account Number(s):</b>	Ptns Sections 5, 6, 7, & 8, T27N R2E WM
<b>Related Documents:</b>	N/A

THIS DEVELOPMENT AGREEMENT FOR PORT GAMBLE RURAL HISTORIC TOWN (this “**Agreement**”) is entered into effective as of this \_\_\_ day of \_\_\_\_\_, 2021 (“**Effective Date**”), by and between the OPG PORT GAMBLE LLC, a Washington limited liability company (“**OPG**”), and KITSAP COUNTY, a Washington municipal corporation (“**County**”), hereafter collectively referred to as “Parties.”

**RECITALS**

A. OPG owns a tract of real property in and near the rural historic town of Port Gamble in Kitsap County, Washington, which is legally described in Attachment A (“**Property**”) and shown on the map attached as Attachment B. Port Gamble was designated a National Historic Landmark District in 1966 and in 1998 the County identified Port Gamble as a limited area of more intensive rural development (LAMIRD) under the Growth Management Act (GMA). The Kitsap County Code (“**Code**” or “**KCC**”) identifies the town as a rural historic

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town (RHT) with Residential, Commercial, and Waterfront RHT zones (RHTR, RHTC, and RHTW, respectively). The Property contains the entirety of the town as well as nearby land zoned Rural Residential (RR) and Rural Wooded (RW).

**B.** The Code currently permits the Property to be developed for a range of uses in accordance with the historic uses and densities present in and around Port Gamble, including some higher-impact commercial and industrial uses. For example, in addition to typical residential and small business uses, chapter 17.410 of the Code could allow some heavier impact uses in the waterfront zone, such as forest products manufacturing (including sawmills), natural resource industries, and waterfront shipping uses, and heavy and hazardous manufacturing and fabrication. However, instead of including the full range of industrial, resource, and commercial uses that currently could be permitted under the Code, OPG prefers to focus its redevelopment plans on tourist, visitor, and recreational uses, including residential, hotel, commercial/retail, restaurant, and other compatible uses, as generally described in Section 1 of this Agreement (“**Project**”).

**C.** OPG intends to develop the Property in a coordinated fashion, leaving the street grid and other historic features of the town intact, but in a way that preserves flexibility for the siting and development of new uses in the historic town, including limited changes to the road geometrics and/or site layout so that the town can more closely retain the character of an authentic New England town, upon which it was originally based, and follow New Urbanist guidelines for a pedestrian friendly walking community with open space public areas.

**D.** To accomplish this walkable community, Port Gamble desires flexibility in long-term development plans because the location, density, and character of new uses may need to be adapted in response to future analysis of potential development sites, discovery of archeological artefacts, or changes in the market for certain types of development. The Parties agree that some flexibility can be provided and that coordinated development of the Project is required.

**E.** Port Gamble’s significance was recognized in 1966 when it was inducted into the National Register as a National Historic Landmark District.

**F.** The original sawmill, which was owned by OPG’s predecessor (Pope and Talbot) was closed in 1995. The mill closure adversely impacted the town’s economy and function in the region, and the town has operated at a loss since, placing its economic viability in question. Since that time, OPG has taken steps to re-purpose the town away from heavy industrial uses to more tourism and residential uses. Accomplishments in this regard include the following:

- OPG worked with the Washington State Legislature, which adopted RCW 36.70A.520, amending the Growth Management Act to specifically enable the designation of national historic towns like Port Gamble. The National Park Service, fearing demolition of the town, supported the change;
- OPG worked with the County to designate the Port Gamble area as a LAMIRD under RCW 36.70A.070(5)(d)(i) and to classify it as a Rural Historic Town (Ord. 236-1999), which allowed for conversion of many buildings in the commercial core to change from residential uses to tourism and small business uses. There

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are now many more business catering to the public than at the time of mill closure;

- OPG initiated a wedding and event business that now draws tens of thousands of visitors; annually hosting 150 weddings and private events, numerous public festivals, events and trail competitions, which together provide the economic foundation of a visitor-based economy. There were few businesses in town after the mill closed, now there are 23;
- OPG has worked with the County since 2007 to set aside over 4,000 acres of land and 1.5 miles of shoreline in Port Gamble Bay for park and recreation purposes.
- OPG has remodeled nearly all of its over 50 historic structures in the town to bring them to their current, good condition while conserving the historic features;
- OPG has worked with the Kitsap Public Utility District (KPUD) to extend the District's water service to the townsite; and
- OPG has worked with KPUD and the Washington State Department of Ecology to construct a new membrane-reactor wastewater treatment plant that will discharge highly treated effluent to uplands soils to help replenish the local aquifer. This will also allow for the opening of over 90 acres of formerly-closed shellfish beds around the now-removed sewer outfall pipe.
- OPG has worked with the Washington State Department of Ecology to remediate and clean-up the town, mill site, surrounding lands, and Port Gamble Bay since 2002. The in-water portion of the cleanup was completed in early 2017 and cleanup of the uplands, as well as in-water monitoring, continues.

G. The Washington State legislature has provided for vesting of complete plat applications ("**Plat Statute**," RCW 58.17.033) and the County has adopted local vesting rules in KCC 21.04.150.

H. On January 17, 2013, OPG submitted complete applications for the following permits associated with the Project:

- Performance Based Development ("**PBD**")/Preliminary Subdivision ("**Plat**") (#13-00165);
- Shoreline Substantial Development Permit (#13-00164); and
- Site Development Activity Permit (#13-00166).

OPG also plans to seek other land use permits and approvals to implement the Project.

I. The Washington State legislature has also authorized local governments to enter into development agreements with the owner of real property regarding applicable regulations, standards, and mitigation that will apply to, govern, and vest a project (RCW 36.70B.170, *et*

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*seq.*, “**Development Agreement Statute**”). The County’s requirements and process for entering into such development agreements are set forth in KCC 21.04.220.

**J.** The County has determined that the Project is a development that meets the goals and purposes for which the Development Agreement Statute was enacted, and complies with the provisions of KCC 21.04.220.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the promises, covenants and provisions set forth in this Agreement, the parties agree as follows:

**1. PROJECT.** As stated in the 2013 applications, the Project would preserve Port Gamble’s historical resources by providing additional residential, commercial, and retail development and by updating services and amenities available at the Property. The Property includes approximately 319 acres, of which approximately 114 acres lie in the Rural Historic Town LAMIRD; and the remaining approximately 205 acres is zoned Rural Residential (approximately 7 acres) or Rural Wooded (approximately 198 acres). The conceptual plan for the development of the Project on the Property, and the basis of the Plat, is shown in Attachment B. The specific types of uses and the final acreage for each will be determined at the time of preliminary plat approval, with modifications as allowed by code through the final plat stage. The elements of the Project are as follows, and are further described in the Port Gamble Redevelopment Plan submitted with the PBD/Plat application:

**1.1 Residential.** As currently configured, the proposed PBD/Plat contemplates approximately 151 lots for residential use of various types (single family, cottages, townhomes, multi-family) for a total of 226-265 dwelling units. The overall density of 2.5 dwelling units per acre for the LAMIRD will be retained. Associated site improvements, such as roads, sidewalks, sewer, water, and stormwater are included.

**1.2 Commercial.** As currently configured, there will be 24 future development tracts for commercial, educational, and other non-residential development. This will include approximately 156,000 square feet for general commercial space, a 100-room hotel and an approximately 5,000 square foot restaurant. Associated site improvements, such as roads, sidewalks, sewer, water, and stormwater are included.

**1.3 Open space.** As currently configured, there will be approximately 57 tracts for parks, passive use, natural, or other types of open space, totaling at least 50% of the Project Area.

**1.4 Agriculture.** As currently configured, there is proposed moderate intensity agriculture in the rural zones, to include hops, vineyards, a greenhouse and nursery.

**1.5 Tourism.** The Project proposes tourism facilities and agritourism uses compatible with the overall development plan.

**1.6 Wildlife Shelter.** The Project proposes space to relocate the West Sound Wildlife Shelter.

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1.7 Water access. The Project will create a new pocket beach and associated public access trails.

**2. VESTING AND DEVELOPMENT REGULATIONS.**

**2.1 Vesting.** The Parties agree that the Project is vested to the development regulations in Kitsap County Code that were in effect on January 17, 2013, except as provided in Section 2.2 of this Agreement (the “**Vested Development Regulations**”). A non-exhaustive list of the Vested Development Regulations is provided in Attachment C to this Agreement. This vesting, however, shall not prohibit OPG from providing more than the minimum required by the laws in effect as of the date of vesting.

This vesting applies not only to the applications submitted on January 17, 2013, but also to applications for subsequent approvals to implement the Project (collectively, the “**Implementing Approvals**”). The Implementing Approvals are in addition to the applications identified in Recital G, above, and must be separately applied for prior to the expiration of this Agreement in order to be vested to the Vested Development Regulations. Conditional use permits or administrative conditional use permits, binding site plans, site development activity permits or building permits are examples of the Implementing Approvals that may be needed to complete the development of the Project. Pursuant to KCC 21.04.150, neither the Project nor any Implementing Approval shall vest to regulations governing procedures.

**2.2 Exceptions to Vesting.** The vesting provisions of Section 2.1 shall not apply to the following:

**2.2.1 Construction Standards.** All applications for Implementing Approvals shall conform to the most current versions of the International Building Code and Uniform Fire Code and similar construction codes as adopted by the County, except as otherwise provided herein.

**2.2.2 Review Fees.** Permit applicants within the Project shall pay the County fees in effect on the date each Implementing Approval is submitted for processing.

**2.2.3 Other Fees.** Unless otherwise provided in the adopted Plat, all utility connection fees and other fees not specifically addressed by this provision shall be paid in accordance with the rules in effect on the date the fee-generating activity occurs, but the amount of such fees shall take into account the facilities installed by OPG at its cost (and not at the cost of the utility).

**2.2.4 County’s Reserved Authority.** In accordance with Development Agreement Statute, RCW 36.70B.170(4), the County reserves the authority to impose new or different regulations to the extent required to prevent a serious threat to public health and safety.

**2.2.5 New Development Standards.** Should the Board of County Commissioners adopt through its ordinary legislative process new development

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standards or regulations that are applicable to the Project or the Property, the parties may, by mutual consent, agree to apply such standards or regulations to the Project and / or the Implementing Approvals.

**3. TERM.** The term of this Agreement (“Term”) shall continue for a maximum of fifteen (15) years after the Effective Date. Any applications submitted after the Term of this Agreement shall be governed by the adopted County zoning and related development regulations in effect at the time of application.

**4. SEPA.** SEPA review for the Project has been completed pursuant to the Final Environmental Impact Statement for the Proposed Port Gamble Redevelopment Plan published by Kitsap County on October 8, 2020 (the “FEIS”). The FEIS was not appealed during the 14-day administrative appeal period which expired on October 22, 2020. A listing of SEPA documentation and environmental studies relating to the Property is set forth in the FEIS.

**4.1 Mitigation.** The mitigation measures specified in the above-referenced SEPA documentation for the Project are intended to address or avoid any significant adverse environmental impacts associated with the Project, and shall be implemented by OPG as required in the Project approvals or as modified as a result of any appeal thereof.

**4.2 Further Project-Level SEPA Review.** The above-described project-level SEPA compliance is intended to satisfy all SEPA requirements for the subsequent build-out of the Project through Implementing Approvals to the extent the impacts from the Implementing Approvals are covered by said project-level SEPA analysis. The SEPA documentation analyzed a “Project Envelope” representing the maximum allowable Project densities and uses using the development standards and mitigation measures approved in this Agreement (“Project Envelope”). The SEPA process to be followed for Implementing Approvals is set forth in Attachment D-2.

**5. GENERAL PROVISIONS.**

**5.1 Authority.** The County and OPG each represent and warrant it has the respective power and authority, and is duly authorized to execute, deliver and perform its obligations under this Agreement.

**5.2 Binding on Successors.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of OPG and the County, as well as any city that incorporates or annexes this area as provided in RCW 36.70B.190.

**5.3 Severability.** If any provision of this Agreement is determined to be unenforceable or invalid by a court of competent jurisdiction, then (a) this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law, (b) the parties agree to seek diligently to modify the Agreement consistent with the court decision, (c) neither party shall undertake any actions inconsistent with the intent of this Agreement until the modification to this Agreement has been completed, and (d) the validity of the remaining provisions will not be affected.

**5.4 Amendment.** Except as otherwise provided in this Section, no change or

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modification of this Agreement shall be valid unless the same is in writing, is signed by authorized representatives of the County and OPG, and is processed in accordance with any applicable requirements of chapter 36.70B RCW and chapter 21.04 KCC, including public notice. So long as OPG owns any portion of the Property, OPG must be a signatory to any amendment to this Agreement.

It shall not be considered an amendment to this Agreement if in the application of any development regulation, the Code authorizes the Director or designee to allow a variation or other change and the Director or designee exercises that authority in accordance with the limitations of Code. Examples of such authorized variations include, but are not limited to, a variance of any numerical standard under KCC 17.105.010, increased setbacks or landscaping buffers under KCC 17.410.050(A)(12), decreased setbacks or landscaping buffers under KCC 17.420.030(B), view blockage waivers under KCC 22.400.135, or PBD revisions under KCC 17.450.110.

**5.5 Recording.** Pursuant to RCW 36.70B.190 and KCC 21.04.220(F), this Agreement shall be recorded with the Kitsap County Auditor, once approved and fully-executed.

**5.6 No Third-Party Beneficiary; Remedies.** This Agreement is made and entered into for the sole protection and benefit of the Parties, their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement. The provisions of this Agreement may be enforced by either Party in a court of competent jurisdiction, which may grant legal and/or equitable relief to enforce the provisions of this Agreement.

**5.7 Notices.** All communications, notices and demands of any kind which a party under this Agreement requires or desires to give to any other party shall be in writing and either (a) delivered personally (including delivery by professional courier services), (b) sent by facsimile transmission with an additional copy mailed first class, or (c) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, to the addresses set forth with each signature. Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered 48 hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given. Notices shall be directed as follows:

Kitsap County:	OPG Port Gamble LLC:
Director	Jon Rose, Vice President
Kitsap County Department of	OPG Port Gamble LLC
Community Development	19950 7 <sup>th</sup> Avenue NE, Suite 200
614 Division Street, MS-36	Poulsbo, WA 98370
Port Orchard, WA 98366	
	<u>With a copy to:</u>
	Rayonier, Inc.
	Attn: General Counsel

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1 Rayonier Way  
Wildlight, Florida 32097

**5.8 Relationship of the Parties.** Notwithstanding any other provision of this Agreement, or any other agreements, contracts or obligations which may derive here from, nothing herein shall be construed to make the County or OPG partners or joint venturers, or to render any other parties liable for any of the debts or obligations of the other parties.

**5.9 Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the state of Washington. Any action with respect to this Agreement shall be brought in Kitsap County Superior Court, Port Orchard, Washington.

**5.10 Multiple Originals.** This Agreement may be executed in multiple counterpart copies, each of which shall be deemed an original.

**5.11 Construction.** The headings in this Agreement are used for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement. All parties hereto have been represented by legal counsel and accordingly hereby waive any rule of construction that an agreement may be construed against its drafter. Attachments A through D, inclusive, are incorporated in the Agreement by this reference as if fully set forth.

**5.12 Dispute Resolution.** In the event of a dispute between the Parties about the application or interpretation of this Development Agreement, OPG may request an interpretation by the Director of the Department of Community Development as to the meaning or application of the Development Agreement. Any Director's interpretation issued pursuant to this Section 5.12 may be appealed to the Hearing Examiner under KCC 21.04.290.

IN WITNESS WHEREOF this Agreement has been entered into between the County and OPG effective on the last date of signatures below.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021

**OPG PORT GAMBLE LLC,**  
a Washington limited liability company

**BOARD OF COUNTY COMMISSIONERS**  
Kitsap County, Washington

\_\_\_\_\_  
By: Jon Rose  
Its: Vice President

\_\_\_\_\_  
**ROBERT GELDER, Chair**

\_\_\_\_\_  
**EDWARD E. WOLFE, Commissioner**

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\_\_\_\_\_  
CHARLOTTE GARRIDO, Commissioner

ATTEST:

\_\_\_\_\_  
Dana Daniels, Clerk of the Board

**LIST OF ATTACHMENTS:**

<b>Attachment A</b>	<b>Legal Description of Property</b>
<b>Attachment B</b>	<b>Map of Property and Conceptual Plan for Project</b>
<b>Attachment C</b>	<b>List of Vested Development Standards</b>



ATTACHMENT A

LEGAL DESCRIPTION OF PROPERTY

RESULTANT PARCEL A OF "BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY", RECORDED UNDER AUDITOR'S FILE NO. 201706210124 AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

EXCEPT THOSE PORTIONS THEREOF CONVEYED TO THE STATE OF WASHINGTON BY "BOUNDARY LINE AGREEMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905230182 AND AS SHOWN ON "RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905100190, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

**AND TOGETHER WITH** RESULTANT PARCEL B OF "BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY", RECORDED UNDER AUDITOR'S FILE NO. 201706210124 AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

EXCEPT THOSE PORTIONS THEREOF CONVEYED TO THE STATE OF WASHINGTON BY "BOUNDARY LINE AGREEMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905230182 AND AS SHOWN ON "RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905100190, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

**AND TOGETHER WITH** RESULTANT PARCEL C OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

**AND TOGETHER WITH** RESULTANT PARCEL D OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

EXCEPT THOSE PORTIONS THEREOF CONVEYED TO THE STATE OF WASHINGTON BY "BOUNDARY LINE AGREEMENT" RECORDED UNDER AUDITOR'S FILE NO.

201905230182 AND AS SHOWN ON "RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905100190, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

**AND TOGETHER WITH RESULTANT PARCEL E OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH RESULTANT PARCEL F OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH RESULTANT PARCEL G OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH RESULTANT PARCEL H OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON**

**AND TOGETHER WITH RESULTANT PARCEL I OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH RESULTANT PARCEL J OF BOUNDARY LINE ADJUSTMENT AND RECORD OF SURVEY, RECORDED UNDER AUDITOR'S FILE NO. 201706210124, AND "BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201706210123, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.**

**TOGETHER WITH GOVERNMENT LOT 4 IN SECTION 6, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON,**

**TOGETHER WITH TIDELANDS OF THE SECOND CLASS TO THE LINE OF MEAN LOW TIDE AS CONVEYED BY THE STATE OF WASHINGTON BY DEED DATED FEBRUARY 14, 1893 AND RECORDED IN VOLUME Q, PAGE 632 OF THE KITSAP COUNTY AUDITOR;**

AND TOGETHER WITH TIDELANDS OF THE SECOND CLASS AS CONVEYED BY THE STATE OF WASHINGTON BY DEED DATED APRIL 10, 1913, AND RECORDED UNDER AUDITOR'S FILE NO. 67215, BETWEEN THE LINE OF MEAN LOW TIDE AND EXTREME LOW TIDE ADJACENT TO AND ABUTTING THEREON;

EXCEPT THOSE RIGHTS CONVEYED TO THE STATE OF WASHINGTON SR-104 (FORMERLY STATE ROAD NO. 21) FOR RIGHT-OF-WAY PURPOSES BY INSTRUMENTS RECORDED UNDER AUDITOR'S FILE NO. 147835 AND 210979;

ALSO EXCEPT ANY PORTION IN GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON;

AND ALSO EXCEPT THAT PORTION FOR CEMETERY AS DESCRIBED IN QUIT CLAIM DEED RECORDED UNDER AUDITOR'S FILE NO. 8406130169.

AND ALSO EXCEPT THOSE PORTIONS THEREOF CONVEYED TO THE STATE OF WASHINGTON BY "BOUNDARY LINE AGREEMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905230182 AND AS SHOWN ON "RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905100190, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.

AND TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 4, SECTION 6, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON DESCRIBED AS CEMETERY IN QUIT CLAIM DEED RECORDED IN AUDITOR'S FILE NO. 8406130169.

AND TOGETHER WITH GOVERNMENT LOT 3, SECTION 6, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON;

TOGETHER WITH TIDELANDS OF THE SECOND CLASS TO THE LINE OF MEAN LOW TIDE AS CONVEYED BY THE STATE OF WASHINGTON BY DEED DATED FEBRUARY 14, 1893 AND RECORDED IN VOLUME Q, PAGE 632 OF THE KITSAP COUNTY AUDITOR;

AND TOGETHER WITH TIDELANDS OF THE SECOND CLASS AS CONVEYED BY THE STATE OF WASHINGTON BY DEED DATED APRIL 10, 1913, AND RECORDED UNDER AUDITOR'S FILE NO. 67215, BETWEEN THE LINE OF MEAN LOW TIDE AND EXTREME LOW TIDE ADJACENT TO AND ABUTTING THEREON;

EXCEPT THAT PORTION THEREOF LYING WITHIN WALKER BEACH DIVISION 1, ACCORDING TO PLAT RECORDED IN VOLUME 5 OF PLATS, PAGE 41, IN KITSAP COUNTY, WASHINGTON;

ALSO EXCEPT THOSE RIGHTS CONVEYED TO THE STATE OF WASHINGTON FOR SR-104 (FORMERLY STATE ROAD NO. 21) FOR RIGHT-OF-WAY PURPOSES BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO. 210979;

**AND ALSO EXCEPT THAT PORTION THEREOF LYING SOUTH OF SR-104.**

**AND ALSO EXCEPT THOSE PORTIONS THEREOF CONVEYED TO THE STATE OF WASHINGTON BY "BOUNDARY LINE AGREEMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905230182 AND AS SHOWN ON "RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT" RECORDED UNDER AUDITOR'S FILE NO. 201905100190, BOTH IN THE RECORDS OF KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH THAT PORTION OF GOVERNMENT LOTS 2 AND 3, LYING SOUTH OF STATE HIGHWAY 104, SECTION 6, TOWNSHIP 27 NORTH, RANGE 2 EAST. W.M., IN KITSAP COUNTY, WASHINGTON;**

**EXCEPT THE PLAT OF GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH VACATED LOTS 1, 2, 3, 4, 5, 6, 7 AND 8, AS PER COMMISSIONER'S JOURNAL NO. 12, PAGE 474, ALL IN VACATED PORTION OF GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH VACATED LOTS 9, 10, 11, 12, 16, 17, 37, 38, 39, 40, 41 AND 42, AS PER COMMISSIONER'S JOURNAL NO. 15, PAGE 329, ALL IN VACATED PORTION OF GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON;**

**TOGETHER WITH THAT PORTION OF VACATED CARVER DRIVE, PER COMMISSIONER'S JOURNAL VOLUME NO. 15, PAGE 329, WHICH ATTACHES TO SAID PREMISES BY OPERATION OF LAW;**

**TOGETHER WITH THAT PORTION OF VACATED GAMBLE WAY, PER COMMISSIONER'S JOURNAL VOLUME NO. 15, PAGE 329, WHICH ATTACHES TO SAID PREMISES BY OPERATION OF LAW, INCLUDING BOTH THE EAST HALF AND WEST HALF OF SAID VACATED GAMBLE WAY.**

**AND TOGETHER WITH THE VACATED LOTS 13, 14, 15, 18 AND 20, AS PER COMMISSIONER'S JOURNAL NO. 15, PAGE 329, ALL IN VACATED PORTION OF GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH THE VACATED LOTS 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33 AND 34, AS PER COMMISSIONER'S JOURNAL NO. 15, PAGE 329, ALL IN VACATED PORTION OF GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 7, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON;**

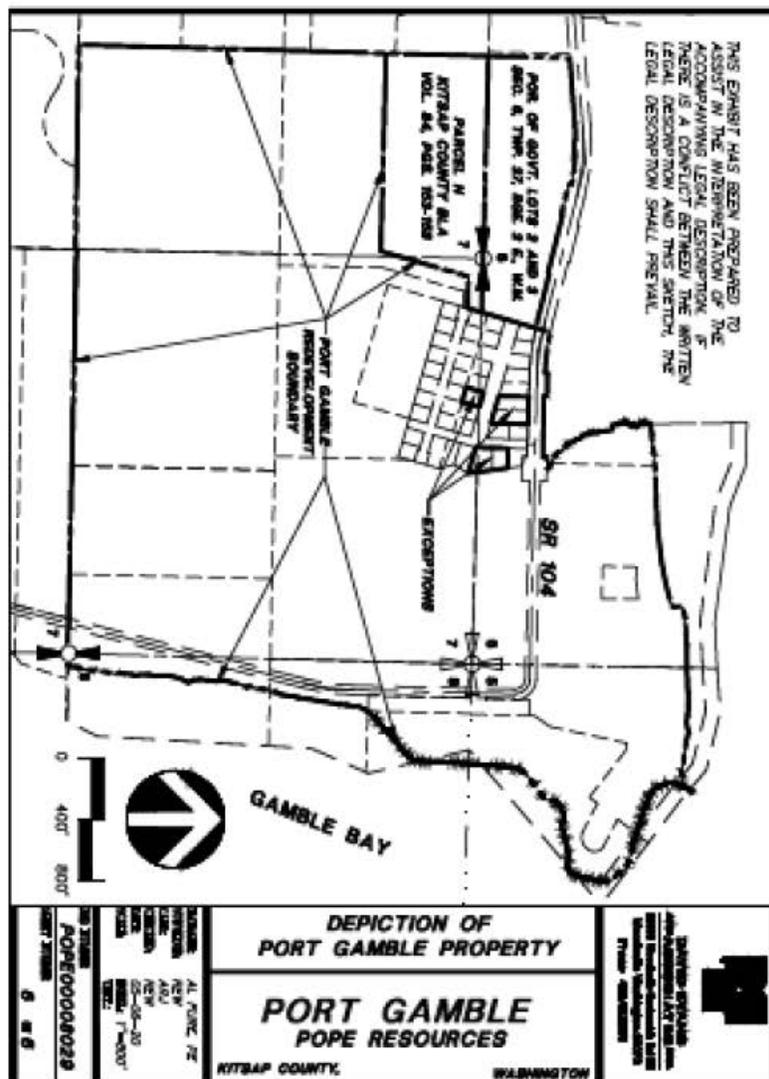
**EXCEPT ANY PORTION LYING WITHIN GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON.**

**AND TOGETHER WITH THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHEAST CORNER OF LOT 1 OF THE VACATED PORTION OF THE PLAT OF GAMBLE VILLAGE, AS RECORDED AUGUST 21, 1981, IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON; THENCE NORTH 73°44'23" WEST, A DISTANCE OF 720 FEET ALONG THE SOUTHERLY BOUNDARY OF CARVER DRIVE; THENCE SOUTH 16°15'37" WEST, A DISTANCE OF 10 FEET ALONG THE SOUTHERLY BOUNDARY OF CARVER DRIVE; THENCE NORTH 73°44'23" WEST, A DISTANCE OF 80 FEET ALONG THE SOUTHERLY BOUNDARY OF CARVER DRIVE; THENCE SOUTH 16°15'37" WEST, A DISTANCE OF 490 FEET; THENCE SOUTH 73°44'23" EAST, A DISTANCE OF 800 FEET; THENCE NORTH 16°15'37" EAST, A DISTANCE OF 500 FEET TO THE POINT OF BEGINNING;**

**EXCEPT FOR VACATED LOTS 1, 2, 3, 4, 5, 6, 7 AND 8, GAMBLE VILLAGE, PER COMMISSIONER'S JOURNAL NO. 12, PAGE 474, ALL IN VACATED PORTION OF GAMBLE VILLAGE, ACCORDING TO PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 7, IN KITSAP COUNTY, WASHINGTON.**

**ATTACHMENT B**

**MAP OF PROPERTY AND CONCEPTUAL PLAN FOR PROJECT**



**ATTACHMENT C**

**LIST OF VESTED DEVELOPMENT STANDARDS**

**Vested Kitsap County Codes for  
 Development Agreement for Port Gamble Rural Historic Town**

This Attachment C sets forth the relevant Kitsap County codes that were in effect on January 17, 2013 and thus constitute the Vested Development Regulations. All code provisions in effect on this date are considered vested whether or not they are listed herein, and are incorporated by this reference as if set forth in full herein. A full copy of the codes listed below is on file with the County's Department of Community Development.

1.	Kitsap County Stormwater Code (Title 12)
2.	Kitsap County Stormwater Manual Effective February 16, 2010
3.	Kitsap County Land Division and Development Code (Title 16)
4.	Kitsap County Zoning Code (Title 17), including: <ul style="list-style-type: none"> <li>• Chapter 17.110 – Definitions</li> <li>• Chapter 17.310 – Rural Residential Zone</li> <li>• Chapter 17.301 – Rural Wooded Zone</li> <li>• Chapter 17.321B – Port Gamble Rural Historic Town</li> <li>• Chapter 17.381 – Allowed Uses</li> <li>• Chapter 17.382 – Density, Dimensions and Design</li> <li>• Chapter 17.425 – Performance Based Development</li> <li>• Chapter 17.383 – Development Regulations for Public Sewer Systems, Community Sewage Disposal Systems and Large On-Site Sewage Systems</li> </ul>
5.	Kitsap County Environmental Code (Title 18)
6.	Kitsap County Critical Areas Ordinance (Title 19)
7.	Kitsap County Shoreline Master Program (Title 22)
8.	Kitsap County Road Standards, including chapter 11.22
9.	Kitsap County Transportation Facilities Concurrency Ordinance (chapter 20.04)

**ATTACHMENT D**

**SEPA COMPLIANCE PROCEDURES FOR IMPLEMENTING APPROVALS**

Upon receipt of any application for any subsequent permit (“Implementing Approval”) within the Property, the County shall undertake SEPA compliance as follows. The EIS analyzed a “Project Envelope” representing the maximum allowable densities and uses within the Port Gamble Project.

**Step 1 - Project Envelope Determination.** First, the County shall determine if the requested Implementing Approval applied for is within the Project Envelope. The County can request the applicant to provide reasonable information (including for convenience an environmental checklist even if a threshold determination is not required under this Step 1) to the extent needed to determine the requested action is within the Project Envelope. If so, and if there have been no substantial changes, changed circumstances, or new information regarding the Project or its impacts that were not previously analyzed, then the existing SEPA documents and analysis shall be utilized and no further SEPA threshold determination is required. Under WAC 197-11-600(4)(a), “Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document.” If the application is beyond the Project Envelope, then a threshold determination is required under Step 2 below.

**Step 2 - Threshold Determination.** If the requested Implementing Approval exceeds the Project Envelope, then the County shall prepare a threshold determination, taking into account the existing SEPA documents and analysis and the governing Development Standards under this Agreement which address environmental mitigation for the Project. Any studies or other information requested by the County from the applicant shall relate only to those potential impacts not adequately covered by the existing SEPA documents and analysis. The County shall issue a determination of non-significance (DNS) or a mitigated DNS (MDNS) utilizing an addendum or incorporating the prior SEPA documents and analysis to the fullest extent possible, except an addendum or supplemental EIS (SEIS) shall be required if the conditions in Step 3 are present.

**Step 3 - SEIS.** The County shall prepare an addendum or SEIS if there are:

3.1 Substantial changes to the Project so that the proposal or Project Envelope described in the existing SEPA documents and analysis are likely to have significant adverse environmental impacts not previously analyzed and which cannot be mitigated through the Development Standards applicable to the Project (or revisions, additions and amendments to those Development Standards); or

3.2 New information indicating the Project is likely to have significant, adverse environmental impact not previously analyzed in the existing SEPA documents and analysis and which cannot be mitigated through the Development Standards applicable to the Project (or revisions, additions and amendments to those Development Standards).

If an addendum or SEIS is required, the County shall limit the scope thereof to the impacts which required the additional analysis (e.g. the County shall utilize a focused scope and EIS).

**Step 4 - Modified Development Standards.** If the SEIS discloses additional mitigation is required to avoid a serious threat to public health and safety hazards, then the Development Standards applicable to the Project may be modified.