

BEFORE THE HEARING EXAMINER FOR THE CITY OF DUPONT

RE: DuPont Public Works Operations Facility

FINDINGS OF FACT, CONCLUSIONS OF AND FINAL DECISION

Site Plan, Variance, Design Review and Tree Modification

File No. PLNG 2019-024, -034, -036 and 2020-001

SUMMARY

The Applicant has requested approval of four permit applications for the construction of three public works buildings to be added to the City of Dupont Civic Campus, located at the northwest corner of the intersection of Civic and Center Drives. The three buildings are composed of a 14,707 square foot two-story public works office/maintenance building, a 2,909 square foot public works storage building and a 900 square foot public works fueling station. The applications are composed of site plan review, four variances (one setback standard and three design standards), design review and a tree modification. The four permit applications are approved subject to conditions.

TESTIMONY

Lisa Klein, City of Dupont planning consultant, summarized her staff report. Ms. Klein made corrections to the staff report, which were outlined in the second slide of her PowerPoint. The changes included changes to staff recommended conditions of approval. Specifically, recommended Condition 27 requires added design treatment to be added to the west elevation of the Public Works maintenance/office building and Ms. Klein wanted those treatments to apply to the southern elevation as well. Recommended condition 5g required revisions to be made to the Applicant's grading plan and Ms. Klein wanted those changes to be made to the Applicant's landscaping plan instead. Finally, Ms. Klein wanted recommended Condition 31 removed, as the requirements of that condition are duplicated in other recommended conditions. In response to examiner questions, Ms. Klein noted that the 131-foot separation of the storage building depicted in the table at page 7 of the staff report is the separation

1 from the access easement, not the western property line. Dominic Miller, Project Manager, explained
2 that the easement does not run along the entire length of the western property line, which is why there
3 is 131 feet of separation as opposed to the 9.6 feet of separation from the property line itself.

4 In response to examiner questions, Mr. Wilson, Dupont Community Development Director, explained
5 that the public works office/maintenance building couldn't be located along Civic Drive as required by
6 a couple of the development standards because this would interfere with access of fire apparatus to the
7 public safety building, which currently also faces towards Civic Drive.

8 Gus Lim, Applicant, noted that the purpose of the project was to consolidate public works facilities
9 onto a single campus. The proposed buildings will replace outdated facilities located outside the civic
10 center campus. He had no issues with any of the staff recommendations except for Condition No. 43.
11 Condition No. 43 regulates gate emergency access. Mr. Lim wanted more flexibility with the fire
12 department on gate access design, because the current condition may create "electronic access
13 competing with each other." He elaborated later in the hearing that if one of the gates opens for a fire
14 truck this could unintentionally trigger other gates to open as well if all gates are required to have
15 electronic access as recommended in Condition No. 43. He had a simpler solution he could propose to
16 the fire marshal. In response to examiner questions, he noted that placing the proposed public works
17 maintenance/office building next to Civic Drive would necessitate structural changes to the existing
18 public works building because it would obstruct vehicle movements at the first-floor storage level of
19 the existing building. The proposed building would also encroach into the exit routes of fire apparatus.

20 Dom Miller, project manager, noted that there also wouldn't be sufficient room for a breezeway if the
21 proposed building were placed adjacent to Civic Drive. The west wall of the fire bay would have to be
22 modified. This may require taking the fire station off-line during construction. Fire apparatus
23 circulation would also be impacted. In response to examiner questions about the access easement, Mr.
24 Miller responded it is expected that the easement will serve as the location for a future public road
25 planned for the area. It's on tribal land, so it's not certain where the road will be precisely located.

18 EXHIBITS

19 Exhibits 1-51 identified at page 37-39 of the May 13, 2020 staff report were entered into the record
20 during the May 27, 2020 hearing along with the staff report. The staff power point was admitted as
21 Exhibit 52.

22 FINDINGS OF FACT

23 Procedural:

24 1. Applicant. The Applicant is the City of Dupont Public Works Department, Attn: Gus Lim,
25 City of DuPont Public Works Director, 1700 Civic Drive, DuPont, WA 98327.

1 2. Hearing. A virtual hearing was held on the subject applications on May 27, 2020 at 10:00 am
2 using the Zoom application, Meeting ID No. 858 4926 7496.

3 3. Project Description. The Applicant has requested approval of four permit applications for the
4 construction of three public works buildings to be added to the City of Dupont Civic Campus, located at
5 the northwest corner of the intersection of Civic and Center Drives. The three buildings are composed
6 of a 14,707 square foot two-story public works office/maintenance building, a 2,909 square foot public
7 works storage building and a 900 square foot public works fueling station. The applications are
8 composed of site plan review, four variances (one setback standard and three design standards), design
9 review and a tree modification. The proposal also includes approximately 42 added parking spaces,
paving, and landscaping. The fueling station includes two aboveground fuel tanks: a 1,000-gallon diesel
driveways off Civic Drive. The Tree Modification approval is necessary to authorize grading and
construction within the tree protection zone of regulated trees.

10 The variances are requested to deviate from the City's front yard setback and design standards.
11 DMC 25.35.050(1), a mixed-use zoning district front yard setback standard, requires the three proposed
12 public works buildings to be setback a maximum of 20 feet from both Civic Drive and to the point where
13 a 30-foot wide easement extends to provide access along the western property line. The Applicant
14 requests that the three proposed buildings be allowed to have setbacks ranging from 74 feet to 332 feet
15 from Civic Drive and the easement. The Applicant requests variances to three design standards. The
16 first, DMC 25.70.020(3)(a), only authorizes setbacks from Civic Drive¹ for the three proposed buildings
17 to be a maximum of 15 feet. For the three proposed buildings, the Applicant proposes setbacks ranging
18 from 176 feet to 332 feet. The second, DMC 25.70.020(3)(a) and (e), requires all primary building
pedestrian entrances and storefront windows to face onto Civic Drive. The primary entrances of the
proposed public works office/maintenance building and storage building face east instead of south to
Civic Drive. The fuel station has no primary entrance and for that reason is not subject to DMC
25.70.020(3)(a) and (e). The third, DMC 25.70.070(7)(c), requires all roofs exposed to view from a
public right of way to have a minimum slope of six feet vertical to 12 feet horizontal. The Applicant
seeks to reduce the roof pitch on all three buildings to four feet vertical to 12 feet horizontal to match
the roof pitch of the existing City Hall and Public Safety buildings on the Civic Campus.

19 4. Conformity to Development Standards². The project conforms to applicable development
20 standards as follows:

21
22 ¹ As discussed in the staff report, the reason why the design standard front yard setback only applies to Civic Drive and the
23 zoning code front yard setback applies to both Civic Drive and the western access easement is due to a difference in
terminology. The design standard measures its setback from "streets," which is defined by DMC 25.10.190.150 as
24 encompassing right of way (not present in the access easement). The zoning code standard is based upon front lot lines,
which is defined by DMC 25.10.160.110 as the property line fronting a street (Civic Drive) or a vehicular access easement
(the access easement along the western property line).

25 ² Conformity to development standards is usually assessed via conclusions of law. However, site plan review standards are
26 highly detailed and technical. In the absence of any disagreement over the application or any indication in the record of a
code compliance issue, the examiner will rely upon assurances made by staff that standards are met, based upon the staff's

1
2 A. Zoning District. The project conforms to the requirements of the applicable zoning district.
3 The project site is located in the Mixed Use (MXD) Zoning District, which is regulated by
4 Chapter 25.35 DMC. The proposed use qualifies as public which is authorized in the MU
5 district. As outlined in page 7-8 of the staff report, the proposal complies with all bulk and
6 dimensional standards of the MXD zoning district except for the maximum front yard setbacks
7 from the western property line easement and Civic Drive. The Applicant has acquired a
8 variance to the front yard setback for all three proposed buildings as approved by this Decision.

9
10 B. Commute Trip Reduction (Chapter 25.75 DMC). The City of DuPont has an existing CTR
11 Program that is on file at DuPont City Hall. Per DMC 25.75.080(b)(1), Public Works, police,
12 and fire employees are generally exempt from this program due to shift work and emergency
13 schedules. The proposal is exempt from Chapter 25.75 requirements.

14 C. Cultural Resources (Chapter 25.80 DMC). The Applicant has complied with the City's cultural
15 resources requirements. A Cultural Resources Assessment was completed for the property by
16 Cultural Resources Consultants (CRC) in April and May 2019. CRC reviewed available project
17 and site cultural and historic information and conducted field investigations. No cultural
18 resources were identified. Background research identified one recorded historic archaeological
19 site determined not eligible for listing on historic registers overlapping the southern portion of
20 the project. Two locations were also found where archaeological material was collected during
21 previous archaeological monitoring in the immediate vicinity of the northern portion of the
22 project. CRC concluded that it is unlikely that any archaeological deposits remain within the
23 project location. No further cultural resources investigations were recommended by CRC.

24
25 A Memorandum of Agreement (MOA) dated August 7, 1989, was executed between
26 Weyerhaeuser Real Estate Company (WRECO) (the previous landowner), the City of DuPont,
and the Washington State Historic Preservation Officer regarding the discovery of cultural
resources within the City of DuPont, customary professional standards for archaeology, and
applicable state and federal laws. Implementation of the MOA requires archaeological
monitoring during soil disturbing activities, including extending an invitation to the Nisqually
Tribe to be present during such activities, and preparation of a closing report. The February 27,
2020, SEPA MDNS includes mitigation measures for the protection of cultural, historical, and
archaeological resources.

27
28 D. Affordable Housing (Chapter 25.85 DMC). Chapter 25.85 DMC, Affordable Housing, is
29 inapplicable as that chapter only applies to housing projects.

30
31 E. Landscaping (Chapter 25.90 DMC). The proposal complies with the City's landscaping
32 standards. DMC Chapter 25.90 regulates landscaping. DMC 25.90.020(2) requires 20%

33
34 exercise of professional judgment. Since these determinations of conformity are based upon staff expertise instead of
35 application of law to fact, the determinations regarding conformance to development standards are treated as findings of fact.

1 landscaping. The proposal provides landscaping but did not include landscaping calculations
2 on the preliminary landscape plans. Condition 5a requires the Applicant to provide landscaping
3 calculations demonstrating compliance with DMC 25.90.020 at the time of site development
4 permit.

5 DMC 25.90.030(2) requires that the interior of surface parking lots with 10 or more stalls be
6 landscaped with at least one tree per six stalls. This landscaping standard is in conflict with
7 design standard 25.70.030(2)(e) and (3)(g), which require an average of one tree per four stalls.
8 Per DMC 25.05.040, when a provision of this title conflicts with another provision in this title,
9 the more restrictive provision shall apply. As such, the proposal shall provide an average of one
10 tree per four stalls. The project proposes 42 parking stalls that will require 11 trees in the parking
11 lot area. The Preliminary Landscape Plan indicates that the proposal will plant ten trees, seven
12 of which are planted near parking areas. Condition 5b requires that the Applicant provide tree
13 calculations showing compliance with DMC 25.70.030 and clearly label all trees at the time of
14 site development permit.

15 DMC 25.90.030(3) requires that a moderate (50% screening) buffer be provided between parking
16 lots and any adjacent public right-of-way. DMC 25.70.030(2)(a) and (c), design standards,
17 provide stricter and more detailed screening standards. The design standards require that
18 screening must include: (i) a trellis or metal grillwork with vines, (ii) a 5 foot wide landscape
19 buffer with a 30 inch wall or planter, (iii) a 10-foot wide landscaped buffer of trees, averaging
20 no more than 25 feet on center and evergreen shrubs sufficient to form a solid screen at least 3
21 feet high within three years of planting. DMC 25.70.030 further requires that all perimeter lots
22 shall be edged with a 6 inch, cast-in-place concrete curb, unless the buffer is specially designed
23 to direct water runoff to a biofiltration swale.

24 The proposal includes a number of parking areas that are located on the interior of the civic center
25 campus and are adequately screened from street view by proposed and existing buildings and/or
26 proposed or existing landscaping. These areas do not require additional screening measures.

27 The proposal includes a new nine-stall parking area between the proposed Public Works office
28 building and the westerly property line. The westerly property line is adjacent to a future street,
29 as depicted in the Old Fort Lake Subarea Plan, and is subject to DMC 25.70.030(2) screening
30 standards. The project proposes a 5.5 to 6.6-foot strip of landscaping, including shrubs and
31 ground cover plantings, between this parking area and the westerly property line. The proposal
32 does not include one of the three treatments options. As such, the proposal is not in compliance
33 with this standard.

34 Because of limited developable area, staff recommends the use of treatment option (ii), which
35 would require placing a 30-inch wall or planter in the landscaping area that runs from the southern
36 edge of the parking area to the storage building drive aisle. It appears as though a concrete curb
37 is provided adjacent to the perimeter parking lots; however, a detail was not provided
38 demonstrating the curb is a 6 inch, cast-in-place concrete curb. Condition 5d and 5e requires that
39 prior to site development approval, the Applicant shall revise landscaping plans to show
40 compliance with DMC 25.70.030(2).

F. Off-Street Parking (Chapter 25.95 DMC). The proposed parking complies with applicable parking standards. As detailed in the staff report, DMC 25.95.030 requires 98 to 197 parking spaces for the proposal based upon the standard of two to four spaces per 1,000 square feet of “office, clinic, and bank” use. No parking demand is assigned to the storage or fueling stations because the buildings are unstaffed. The Applicant proposes 42³ additional parking spaces to the 163 parking spaces currently existing on the campus, for a total of 205 parking spaces upon completion of the project. This exceeds the maximum 197 parking spaces authorized by DMC 25.95.030. However, these calculations do not take into account demand created by the Sequalitcreek Trailhead. DMC 25.95.030 doesn’t assign any specific parking allowance for trailheads, rather providing that the administrator shall determine parking requirements on a case by case basis for unlisted uses. Approximately 12 parking spaces are located near the trailhead and have been historically used for the trail head. Based upon this historical use, the staff report concludes that the 12 spaces should be assigned to the trailhead use. With inclusion of parking for the trailhead, the civic campus may have a maximum of 209 parking spots upon completion. The proposed 205 parking spaces is within this range.

G. Critical Areas (Chapter 25.105 DMC). As conditioned, the proposal is consistent with the City's critical area standards. The site contains two critical areas, addressed as follows:

1. Type F Stream. Sequalitchew Creek adjoins the project site to the north and qualifies as a Type F stream. DMC 25.105.050(2)(g) requires a 100-foot buffer for Type F streams.. In addition, no buildings or structures can be located within 15 feet from the stream buffer. DMC 25.105.050(2) requires that development proposals with streams located on or adjacent to the project site shall not disturb the stream or stream buffer unless the action is allowed under DMC 25.105.050(2).

The Proposed Overall Grading Plan (Sheet G1 4, Ex. 44) and the Planting Plan (Sheet L3.0, Ex. 45) identify minor grading, sidewalk, and landscaping improvements within the labeled 100-foot stream buffer. No buildings or structures are proposed within the 15-foot structural setback; however, there is a wall of unknown height. Per DMC 25.10.190, walls less than 6 feet in height are not considered to be structures and are therefore allowed within the setback. The Applicant has not applied for a Critical Area Permit, which is required for the proposed work within the 100-foot stream buffer. As such, Conditions 4a requires that the Applicant remove work within the 100-foot stream buffer or submit a Critical Area Permit and a Habitat Management Plan, as required per DMC 25.105. The proposed improvements may or may not be allowed, depending on review of the Critical Area Permit and Habitat Management Plan.

³ The staff report notes that the application materials are unclear as to the precise number of parking spots proposed by the Applicant. So long as the total number of parking space upon project completion is between 98 to 209 parking spaces, the amount of proposed parking shall be deemed approved.

1

2. Landslide Hazard Area. The northern property line is adjacent to a landslide hazard
3 area comprised of a steep slope that descends to Sequalitchew Creek. The Applicant
4 submitted a geotechnical report prepared by Pan GEO dated February 21, 2020 (see
5 Attachment H.36). This report confirmed the presence of the offsite landslide hazard
6 area and, in accordance with DMC 25.105.050(3)(c), recommends a minimum
7 setback of 40 feet from top of slope. The Enlarged Site Plan included with the Overall
8 Site Plan (Sheet GA-011, Attachment H.43) depicts what appears to be the top of the
9 steep slope boundary and a 50-foot steep slope setback; however, the line work is not
10 labeled. If correct as assumed, all improvements are located outside the setback.

11

12 The Proposed Overall Grading Plan (Sheet G1-4, Attachment H.44) shows a parking
13 area east of the proposed Public Works office building that was not depicted in the
14 site plan included in the geotechnical report and depicts grading and other
15 improvements within the 50-foot steep slope setback line. It is not clear if the
16 proposed grading occurs within the 40-foot minimum setback recommended by the
17 geotechnical engineer. The geotechnical report states that if the project changes, the
18 geotechnical engineer needs to be consulted to review the recommendations
19 contained in this study and make modifications to the study, if needed. Condition 4c
20 requires that prior to site development approval, the Applicant shall depict and label
21 the 40-foot slope setback line consistently on all plans. In addition, improvements
22 located within the 40-foot steep slope setback shall either be removed or a revised
23 geotechnical report shall be provided that addresses the geotechnical engineer's
24 recommendations for work located within the 40-foot steep slope buffer. Condition
25 3b requires that the Applicant follow the recommendations provided in the
26 geotechnical report; together with any updated/amended geotechnical reports to
assure compliance with the City's critical area regulations.

H. Street Corner Setbacks (Chapter 25.110 DMC). Chapter 25.110 DMC imposes height limits
on structures and landscaping that can be placed within the sight triangle of street corners. The
project area is not within the sight triangle of any intersection.

I. Transportation Concurrency Review (Chapter 25.115 DMC). Chapter 25.115 requires
transportation concurrency review for nonexempt development. The conditions of approval
require that the Applicant will be required to apply for and obtain a Transportation Concurrency
certificate, as provided in DMC 25.115, at the time of building permit application. (Condition
F25).

J. Sign Code (Chapter 25.116 DMC). The Applicant has not proposed any signs for this stage of
review. Signs are regulated by Chapter 25.116 DMC and sign code compliance shall be assessed
upon the submission of a sign permit application, as required by DMC 25.116.140 and Condition
2).

K. Tree Retention (Chapter 25.120). Tree retention standards are governed by Chapter 25.120
DMC. These standards include detailed requirements for the retention and protection of trees

1 based upon tree species and maturity. Special emphasis is placed upon the protection of oak
2 trees. As detailed at pages 22-25 of the staff report, with recommended conditions (adopted by
3 this Decision), the proposal complies with the City's tree retention standards except for proposed
4 grading into the tree protection radius of one Landmark Oregon white oak and four⁴ other oak
5 trees, all located along the northern property limits. The proposed grading was evaluated by an
6 arborist, who concluded that with protection measures he recommended that the grading would
7 not affect the health and stability of the oaks. The protection measures of the arborist are
8 imposed by the MDNS, which requires that the Applicant implement the tree protection
9 measures identified in its tree modification request. With these protection measures, it is
10 determined that the proposed grading encroachment will not adversely affect tree health or
11 stability. Further, it is determined that the proposed encroachment is necessary due to special
12 circumstances since as outlined in the variance requests, there is no other reasonable place to
13 locate the public works facilities in the civic center campus and City operations can be handled
14 more efficiently if the proposed facilities are located in proximity to the existing public works
15 building.

16 L. Wireless Communication Facilities. No wireless communication facilities are proposed, so
17 Chapter 25.125 DMC, Wireless Communication Facilities, does not apply.

18 5. Special Circumstances for Front Yard Setback Variances. Special circumstances necessitate
19 the variances from DMC 25.35.050(1) and DMC 25.70.020(3)(a), which impose minimum setback
20 requirements to Civic Drive and the easement on the western property line as discussed in Finding of
Fact No. 3. As proposed the building arrangement provides functionality and usability of the buildings.
It allows for pedestrian access by the Public Works employees between the buildings, while allowing
for circulation of the Public Works vehicles. Public access and visitor access are not intended or
appropriate for the proposed use type. Proximity requirements to Civic Drive were likely intended for
more commercial/retail type uses wherein the public is encouraged to frequent and access the uses.
Locating the building(s) along Civic Drive in the area of the existing parking lot was attempted but
determined infeasible due to limited accessibility for Public Works vehicles and fire trucks. Fire trucks
need the area adjacent to Civic Drive for egress from the campus. If the proposed buildings were to be
located along Civic Drive, the fire hall would have to be modified, which would put it off-line during
construction. Locating the building(s) along Civic Drive would also result in overall poor utilization
and function of the property, largely due to the limited developable area on the property.

21 6. Special Circumstances for Building Orientation. Special circumstances necessitate the variance
22 to DMC 25.70.020(3)(a), which requires primary building entrances to face Civic Avenue as discussed
23 in Finding of Fact No. 3. The Applicant seeks to have this requirement waived so that primary
entrances can be more efficiently oriented towards the existing public works building instead. Contrary
24 to the commercial building contemplated in DMC 25.70.020(3)(a), the proposed public buildings are

25 ⁴ Page 25 identifies an encroachment into a total of five oaks and the arborist letter, Ex. 28, assesses encroachment
26 into a total of 11 oaks. Approval of the retention waiver extends to all 11 oaks assessed in Ex. 28 if necessary and the
recommendations of the arborist are implemented.

1 not intended or designed for public access; they are only intended for access/use by public employees.
2 This is further evidenced by the security fencing provided around the new and existing facilities. The
3 existing City Hall and Public Safety buildings were not designed in compliance with this code
4 requirement. The existing City Hall building's main entrance does not face the primary street; it faces
5 the parking lot to the west. The existing Public Safety building's primary entrance is located on the
6 east façade, also facing the parking lot. There is no on street parking along the north side of Civic
Drive, primarily to allow for the exiting of fire and emergency vehicles to leave on emergency calls.
7 This lack of street parking demonstrates that the site is not appropriate for public access or for buildings
8 being oriented toward the street.

9
10 7. Special Circumstances for Roof Pitch Variance. The Applicant seeks to reduce the required
11 roof pitch on all three buildings to four feet vertical to 12 feet horizontal to match the roof pitch of the
12 existing City Hall and Public Safety buildings on the Civic Campus. This objective would meet the
13 design intent of DMC 25.70.070(1) by providing a civic campus with a unified character and
14 compatible architectural features. The design intent described in DMC 25.70.070(1) seeks to create a
15 collection of buildings that present a unified character while allowing for the individual architectural
16 expression of each building.

17 8. Variance Hardship Not Caused by Applicant. As outlined in Findings of Fact No. 5-7 above,
18 the circumstances creating the need for the variance result from the buildings currently located on the
19 project site. The Applicant, as the City, did not construct these buildings. The existing improvements,
20 including existing roof pitcher, were constructed by another party. It is apparent from the layout of the
21 existing buildings that the site was designed as a civic campus and not as street front commercial
22 buildings, as appears to have been contemplated in the setback and building orientation standards
23 subject to the variance requests. The usable space for future development and limitations for meeting
code requirements was determined by the original design and placement of the existing buildings.

CONCLUSIONS OF LAW

18 1. Authority. The hearing examiner has authority to hold a hearing and issue a final decision on the
19 proposal. DMC 25.35.060 requires Type III site plan review for building additions in the MXD district
20 totaling more than 50,000 square feet. DMC 25.36.070 requires Type I design review for all
21 development projects in the MXD district. DMC 25.120.050 requires Type III review of tree
22 modification requests. DMC 25.160.020 requires Type III review for variances. DMC
23 25.175.010(2)(b) requires applications involving multiple review procedure types to be consolidated
“under the highest numbered procedure,” which is Type III review for this proposal. DMC
25.175.010(2)(b) provides that the hearing examiner shall hold a hearing and issue a final decision for
Type III permit applications.

24 2. Zoning/Comprehensive Plan Designations. The Comprehensive Plan Designation is Civic
25 Center. The zoning district is Mixed Use (MXD).

3. Design Review. The proposal meets the design review standards imposed by Chapter 25.70 DMC. The findings and conclusions of Section D2 of the staff report, as revised by Slide 2 of the staff PowerPoint, Ex. 52, are adopted by reference to conclude that, with the staff recommended conditions of approval (as revised by Slide 2, Ex. 52), the proposal meets the design standards imposed by Chapter 25.70 DMC. All staff recommended conditions of approval (as revised by Slide 2, Ex. 52) related to the City's design standards are adopted by this Decision.

The staff's design review is independently assessed by the hearing examiner, but as a practical matter design review is not addressed in any detail in examiner decisions unless an issue has drawn disagreement or involves a variance request. Design review typically involves an exercise of significant technical staff expertise that is directed at details creating little public interest with only a moderate impact on surrounding properties. For these reasons, to maintain focus and clarity on the issues that are of greater public concern and to reduce permit review costs, design review analysis is usually adopted by reference.

4. **Review Criteria.** DMC 25.150.030 governs the criteria for site plan review, DMC 25.160.050 governs the criteria for variance approval and DMC 25.120.050 governs the criteria for tree modification approval. Applicable criteria⁵ are quoted below in italics and applied through associated conclusions of law.

Site Plan

DMC 25.150.030: *In order to obtain site plan approval, all of the development regulations and criteria specified in the district applicable to the property must be satisfied in addition to any general development requirements in Chapters 25.75 through 25.95 and 25.105 through 25.125 DMC.*

5. Proposal complies with site plan criteria. The criterion is met. Finding of Fact No. 4 assesses compliance with the DMC chapters referenced in the criterion quoted above and finds the proposal conforms to each of those chapters.

⁵ In addition to applying site plan and buffer reduction criteria, the staff report does an analysis of consistency with the City's comprehensive plan. The review criteria applicable to the applications under review do not require consistency with the comprehensive plan. However, RCW 36.70A.120 requires the City to perform its activities in conformity with its comprehensive plan. Arguably, since the City's review criteria are consistent with the City's comprehensive, any permitting decision made pursuant to those criteria would also be consistent. To the extent that a separate finding of consistency is required by RCW 36.70A.120, it is concluded that the proposal is consistent with the City's comprehensive plan for the reasons outlined in the staff report.

The staff report also identifies that for all project permit applications, DMC 25.75.040 requires that *“during project permit application review, the director shall determine whether the development regulations applicable to the proposed project, or in the absence of applicable development regulations, the City’s comprehensive plan, address the type and density of the use, adequacy of infrastructure, and the character of the proposed development, as authorized by the development standards.”* The detailed review criteria applicable to site plan review addresses all of the issues identified in DMC 25.75.040 and no additional analysis is necessary.

Variances

DMC 25.160.050 (1): *The proposed variance will not amount to a rezone nor authorize any use not allowed in the land use district;*

6. The criterion is met for all four variance requests. The Applicant proposes no change in use.

DMC 25.160.050 (2): *Special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other land in the same land use district, demonstrating that literal interpretation of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same zoning district under the terms of this title;*

7. The criterion is met. Special circumstances justifying all four variance requests apply for the reasons outlined in Findings of Fact No. 5-7. The special circumstances are the improvements already existing at the project site and the interdependence of the proposed buildings with those existing improvements. Denial of the variance would deprive the property owner of rights commonly enjoyed by other properties similarly situated, as developers of other projects placed in similarly sized campus-like settings will usually have the ability to integrate the functionality of numerous buildings in an effective and efficient manner.

DMC 25.160.050 (3): *The special conditions and circumstances noted in subsection (2) of this section are not the result from the actions of the Applicant or property owner;*

8. The criterion is met for all four variance requests as identified in Finding of Fact No. 8.

DMC 25.160.050 (4): *Granting of the variance requested will not confer a special privilege that is denied other properties in the same land use district;*

9. The criterion is met for the reason that the granting of the variance is necessary to grant the Applicant use rights afforded to other developers, as outlined in Conclusion of Law No. 7.

DMC 25.160.050 (5): *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and district in which the subject property is situated; and*

10. The criterion is met. The purpose of the maximum front yard setback requirements and the building orientation requirements is to provide pedestrian accessibility. As noted in Finding of Fact No. 6, the proposed buildings are not open to the public and there would be no benefit in providing pedestrian accessibility. In point of fact, failing to authorize the front yard variance would be detrimental to public welfare since it would require additional construction work on the project site at taxpayer expense.

Similarly, the purpose of the roof pitch requirement is aesthetics and that purpose would be undermined as discussed in Finding of Fact No. 7 since the required roof pitch is not consistent with the roof pitch on the existing buildings of the campus. Overall, approval of the variance will create a public benefit by increasing aesthetics and increasing the functionality of buildings so that they provide public service in an optimal cost-effective manner. There is no detriment to the requested variance apparent from the record.

DMC 25.160.050 (6): *The requested variance does not go beyond the minimum necessary to afford relief.*

11. The criterion is met. Any modifications to the requested variances would unreasonably detract from project functionality and/or aesthetics. For this reason, the variance is considered the minimum necessary to afford relief.

Tree Modification

DMC 25.120.050 Modifications: Anyone with an ownership interest in land may request a modification from the provisions of this chapter based on special circumstances pertaining to that land or the trees on it. Such requests shall be addressed, in writing, with full documentation and justification, to the administrator, who shall grant or deny based on DMC 25.120.010. Such request shall be processed with a Type III procedure per DMC 25.175.010(4).

DMC 25.120.010 Purpose:

(1) *The purpose of this chapter is to:*

- (a) Protect natural habitats, air quality, and ground water recharge;
- (b) Improve the appearance of the community;
- (c) Provide shade and wind protection;
- (d) Reduce stormwater discharge; and
- (e) Conserve water supplies.

(2) This chapter is intended to help achieve these purposes by:

(a) Retaining trees, without reducing developmental densities from those indicated in the comprehensive plan.

12. The criterion is met. As noted in Finding of Fact No. 4K, the Applicant's arborist wrote a report concluding that with protection measures he recommended that the grading proposed within the root protection zones would not affect the health and stability of the oaks. Given that the health of the trees will not be impaired, it is reasonable to conclude that all of their functions as outlined in DMC 25.120.010 will not be diminished and therefore the proposed tree modification is consistent with DMC 25.120.010 and should be approved.

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DECISION

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3 All applicable review criteria for the four permit applications identified in Finding of Fact No. 3 are
4 met for the reasons identified in the Conclusions of Law of this Decision and therefore all four
applications should be approved, subject to the following conditions.

- 5 1. The City issued a Modified SEPA Mitigated Determination of Non-significance dated Feb. 27,
6 2020 that was adopted for this application. All mitigation measures are incorporated herein by
reference as conditions of approval.
- 7 2. A separate sign permit is required for any building or other signage in accordance with the
requirements of DMC 25.116.

8 **Address with following in conjunction with Site Development Permits**

- 9 3. Geotechnical Report Requirements:
 - a. Provide a revised geotechnical report that addresses review of the final site plan.
 - b. The design and construction of the proposal shall follow the recommendations of the geotechnical engineer as provided in the PanGeo Geotechnical Report dated February 21, 2020, and as updated or amended.
- 10 4. The following conditions pertain to the adjacent and onsite critical areas:
 - a. All grading and improvements shall be relocated outside of the Sequallitchew Creek 100-foot buffer. Alternatively, you may apply for a Type III Critical Area Permit for work within the 100-foot buffer. A Habitat Management Plan and stream buffer mitigation plan will be required per the requirements of Chapter 25.105.
 - b. Identify the height of all walls. Walls greater than six feet in height are considered structures and are not allowed within the 15-foot structural setback from the edge of the 100-foot stream buffer.
 - c. Depict the 40-foot steep slope setback consistently on all plans. All improvements shall be located outside of the steep slope setback. Alternatively, you may apply for a Type III Critical Area Permit for work within the 40-foot steep slope setback.
- 11 5. The following conditions pertain to the Landscaping Plans:
 - a. Per DMC 25.90.020(2) 20% of the site (i.e. entire parcel) shall be landscaped area. Provide the landscape calculation on the landscape plans.
 - b. Per DMC 25.70.030(2)(e) and (3)(g), an average of one tree per four parking stalls shall be provided. Provide the tree calculation and clearly label the trees on the landscape plans.
 - c. Irrigation water usage calculations and water conservation notes demonstrating compliance with the requirements of DMC 25.90.040 shall be stated on the Plans.
 - d. Per DMC 25.70.030(2)(a), provide a 30-inch wall or planter within the perimeter landscape buffer located adjacent to the parking area between the Public Works office building and the westerly property line.
 - e. Per DMC 25.70.030(2)(c), all perimeter parking lots shall be edged with a six-inch, cast-in-place concrete curb unless the buffer is specially designed to direct water runoff to a biofiltration swale. Provide the curb details on the plans.

1 f. Per DMC 25.70.030)(2)(d) and (e) the landscape plans shall provide five shrubs per 100
2 square feet of landscaping between the western parking area and the vehicle storage building
3 drive aisle and the westerly property line; and (b) clearly label all proposed trees.

4 g. Indicate the tree species and sizes for the trees that are to be retained and removed on the
5 landscape plans. The oak preserve protection measures provided in DMC25.120.040(3) –
6 1(10) shall be added to the Landscaping Plans.

7 h. The following landscape islands are required in the parking areas. The islands should
8 generally contain a tree, shrubs and groundcover unless there is a concern for utilities.

9 1) The four-stall parking row east of the storage building requires a 6-foot wide landscape
10 planter on the east end.

11 2) The western landscape planter located at the four-stall parking row to the northeast of the
12 Public Works office building shall be redesigned to meet the 6-foot wide requirement.

13 3) The seven-stall parking row between the Public Works office building and the existing
14 Public Safety building (facing the building) does not contain a planter on either end.
15 Unless there is good justification provided as to why the landscape islands cannot be
16 provided (such as circulation issues), the 6-foot wide planters shall be provided on each
17 end.

18 6. Provide an overall tree count for the site and confirm that a minimum of 3 trees per acre will be
19 retained in compliance with DMC 25.120.030(3)(b).

20 7. The following conditions pertain to the civil plans:

21 a. Provide a consistent set of site plan, grading plan and landscape plans.

22 b. Provide a parking exhibit that clearly identifies the existing and proposed parking areas and
23 quantities.

24 c. Per DMC 25.120.030(7), add the following note to the site plan: “This plan is subject to an
25 approved tree retention plan which requires that certain trees be preserved. That plan, which
26 is binding on all owners, is on file with the City Planning Department.”

27 d. The oak preserve protection measures provided in DMC25.120.040(3) – 1(10) shall be added
28 to the Grading Plans.

29 e. Per DMC 25.70.030(2)(c), all perimeter parking lots shall be edged with a six-inch, cast-in-
30 place concrete curb unless the buffer is specially designed to direct water runoff to a
31 biofiltration swale. Provide the curb details on the plans.

32 f. Per DMC 25.70.030(3)(iii), provide details on the height of the raised sidewalks on the plans.

33 g. Per DMC 25.70.030(3)(b) provide a 6-foot landscape planter at the end of all parking rows;

34 h. The width, type, and Pierce County Recording Number of all easements identified in the Title
35 Report shall be shown and labeled on the Plans (e.g., 10' Storm Drainage Easement —
36 Recording No. 12345).

37 i. The Applicant shall submit a preliminary utility plan identifying the existing and proposed
38 water, storm, and sewer systems, to allow the City to determine the feasibility of the site
39 layout. The utility plan shall include the pipe sizes, routing, proposed points of connection
40 for the utilities, and location for the FDCs and hydrants. City Geographic Information System
41 (GIS) information for the City's water and stormwater system are available upon request.

42 j. All relevant City Standard Details for street, storm drainage, and water construction shall be
43 provided in the plan set submitted for construction review.

44 k. ADA pedestrian access shall be provided from the street to the proposed building.

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8. Separate water connections with backflow prevention devices will be required for domestic, fire, and irrigation. Such devices shall be located in underground vaults with easements granted to the City of DuPont for access. The locations of the meters and backflow devices for the water service connections (i.e., domestic, fire, and irrigation) should be shown and labeled for review of site feasibility. Meter sizing calculations will be required for domestic and fire water services.
9. The proposed layout of the water system for the property shall include the proposed fire hydrant locations, sizes of proposed mains, and proposed points of connection to the existing water system. Upon receipt of this information, we can update the City's Water System Model and provide information for both static pressure and available fire flow for the property. City water mains, if any, shall be looped to existing water mains.
10. A minimum of one fire hydrant per 1,250 gallons per minute of required fire flow shall be provided within 150 feet of the proposed building. The Applicant shall confirm the required fire flow with the City Fire Department and identify the existing and proposed fire hydrants to meet this requirement.
11. A drain shall be provided for the covered fueling station, which shall be directed to sanitary sewer and routed through an oil-water separator. Applicant shall provide sizing calculations for oil-water separator. Connection to storm will not be allowed.
12. Fuel storage tanks shall be enclosed by a concrete containment wall with a drain. Applicant shall provide sizing calculations for containment area and volume, and structural calculations for wall sizing. Containment area shall have a drain with a closed valve, directed to sanitary sewer, for spill containment and periodic maintenance.
13. The project activities shall comply with the requirements of the Washington State Department of Ecology National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges associated with construction activity. An NPDES permit may be required for this project prior to issuance of a grading permit.
14. Documentation of Pierce County Public Works and Utilities approval of the Sanitary Sewer Plans for this project will be required prior to issuance of a construction permit.
15. Emergency Vehicle Access Standards: Width/ Per DMC 25.95.050 Note No.4, the minimum aisle width for two-way traffic and for emergency vehicle operations is 26 feet.
16. Emergency Vehicle access less than 26 feet shall be allowed as long as the access is marked in accordance with section 503.3.
 - a. Striping. Painted lines of red traffic paint shall mark fire apparatus access six (6) inches in width to show the boundaries of the lane. The words "NO PARKING FIRE LANE" shall appear in four (4) inches of white letters at 25 feet intervals on the red boarder markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.
 - b. Signs. Signs shall read "NO PARKING FIRE LANE" and shall be twelve (12) inches wide and eighteen (18) inches high. The signs shall have letters and background of contrasting colors, readily legible from a fifty (50) foot distance. Signs shall be permanently affixed to a stationery post and bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs shall be spaced not more than fifty (50) feet apart. Signs may be installed on permanent buildings or walls or as approved by the code official.
 - c. Signs are the preferred method.

1 17. Per the City Street Standards, any substandard curb ramps along street frontage shall be upgraded
2 to current ADA requirements and City Standards. A right-of-way permit will be required for the
3 construction of any improvements within the right-of-way.

4 18. The site plan shall include supplemental exhibits to demonstrate that the City Fire Department's
5 large apparatus can navigate the site (lane width, radius), including access to fire department
6 connections (FDCs) and hydrants. The Fire Department will confirm the adequacy of vehicle
7 access points.

8 19. Lighting shall conform to the requirements of DuPont Municipal Code (DMC) 25.70.070 (12).
9 A parking lot lighting plan, including a photometric exhibit showing the lighting levels, light
10 fixture details and pole heights, will be required for the proposed project. Provide a spec sheet
11 of the light fixtures demonstrating they are shielded fixtures.

12 20. A Stormwater Site Plan, in accordance with the 2012 Department of Ecology (DOE) Stormwater
13 Management Manual for Western Washington, with 2014 amendments, will be required for this
14 project. Infiltration of rooftop areas shall be used where feasible.

15 21. The City's Stormwater System Development Charge (SDC) will apply to the proposed
16 development. The SDC is \$1,000 per 1,900 square feet of impervious surface.

17 22. A Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment
18 Control (TESC) Plan shall be prepared for the project. The project activities shall comply with
19 the requirements of the DOE National Pollutant Discharge Elimination System (NPDES) general
20 permit for stormwater discharges associated with construction activity.

21 23. Documentation of Pierce County Public Works and Utilities approval of the sanitary sewer
22 system for this project will be required. Landscape and irrigation plans that demonstrate
23 compliance with the DMC and current City of DuPont Public Works Standards shall be submitted
24 for review and approval. The Applicant will be required to demonstrate compliance with the
25 substantive requirements identified in DMC Chapter 25.90 Landscaping. The irrigation of the
26 landscaping shall meet the requirements of DMC 25.90.040. Documentation that the
 requirements will be met shall be added to the landscape and irrigation plans for land use
 approval.

27 24. The following is required to ensure adequate facilities are provided for refuse and recycling
28 needs. The Applicant shall either:

29 a. Provide confirmation from the service provider that the size of the refuse and recycling
30 enclosure is adequate for the existing and proposed uses and/or that additional pick up times
31 per week are required.

32 b. Alternatively, upsized or new facilities shall be provided in an area that is already developed
33 (i.e. such as parking spaces). The new facility shall meet the design requirements of DMC
34 25.100 and DMC 25.70.070(1) and be approved by the service provider as meeting their
35 requirements for access.

36 **Address with following prior to issuance of Building Permits:**

37 25. A Transportation Concurrency Certificate is required to be obtained prior to issuance of a
38 building permit.

39 26. The Applicant shall obtain a copy of the City's Water Availability Form, complete the top half,
40 including the estimated peak day water usage in gallons per day, and submit the form to the City
41 for review and approval. Project Water Usage under Part A shall reflect the estimated peak day
42 water usage in gallons per day. The form shall be signed by the City's Public Works Director.

1 **27.** Per DMC 25.70.070(5), provide additional building elements and treatments in the following
2 areas:
3 a. The southern portion of the upper story of the east façade of the Public Works office building
4 shall include additional building elements and details that match other portions of the Public
5 Works office building.
6 b. The storage building west and south elevation shall, include additional building elements and
7 details that match the Public Works office building.
8 **28.** Per DMC 25.70.070(6)(b) provide treatments to address the blank wall requirements on two areas
9 of the Public Works office building:
10 a. South Elevation: The portion of the south façade between the second story windows and the
11 roof and also the area between the pedestrian entrance and the roll up door.
12 b. East Elevation: The area between the two roll up doors and the roof line.
13 **29.** Per DMC 25.70.070(9), the building colors for all buildings shall be revised so that the window
14 and trim color is a contrasting color from the main building color. Provide the window and trim
15 area calculation on the elevations indicating that it is no more than 10 percent of any façade of
16 all buildings.
17 **30.** Provide elevations for all three buildings and identify the type and color of all materials used for
18 all buildings. Include the window glazing type and the minimum slope of the roof for each
19 building.
20 **31.** Condition removed.
21 **32.** The structures, at the time of their Building Permit submittal, must be designed to meet the
22 requirements of the building construction codes in effect at that time. The following codes are
23 currently enforced by the City of DuPont: the 2015 International Building Code, the 2015
24 International Residential Code, the 2015 International Fire Code, the 2015 International
25 Mechanical Code, the 2015 International Fuel Gas Code, the 2015 Uniform Plumbing Code (each
26 as amended and adopted by the State of Washington); and the 2015 Washington State Energy
Code.
27 **33.** The project must receive all land use and civil construction approvals.
28 **34.** Prior to issuance of a building permit, the Applicant shall provide a copy of Pierce County Sewer
29 Service Permit (if applicable) for City record. (Please note that Pierce County Sewer Utility
30 requires a pre-treatment review and approval to be completed prior to their issuance of service
31 connection permit. Each subsequent tenant modification of the building requiring sanitary waste
32 must also complete a pre-treatment review and provide copy of sewer service permitting, where
33 applicable, prior to obtaining a building permit for associated improvements.)
34 **35.** Separate Plumbing and Mechanical Permits shall be required for the project. Plans showing the
35 details for construction for each shall be submitted to the City for review and approval prior to
36 permit issuance. (Note: Electrical permits may be obtained through Wa. St. L&I.; sewer service
37 and permitting through Pierce County Utilities.) Separate Underground Fire Service, Fire
38 Suppression and Fire Alarm Installation Permits are also required through the City (review and
39 inspection by the Dupont Fire Department). Prior to bringing any alarm systems into full
40 operation, the system(s) must be registered with the City through an alarm permit, available at
41 City Hall. Please contact the permit counter for applications or questions.
42 **36.** Fire flow requirements, FDC location, and adequacy of on –site hydrant provisions will be
43 determined by the DuPont Fire Chief or his designee.

1 37. Address will be assigned for the project site, building designation may be required by the
2 Building/Fire department as needed to facilitate response for emergency services.

3 38. Permit fees for building permits will be determined per the fee schedules of adoption at the time
4 of permit application submittal. Full payment of plan review fees associated with the structure
5 will be required at submittal. Application forms are available on-line.

6 39. An automatic fire sprinkler system shall be installed. The system shall comply with NFPA 13
7 Standard for Automatic Fire Sprinkler System. Three (3) sets of plans, hydraulic calculations
8 and material specification sheets for all equipment used in the system shall be submitted by a
9 State of Washington Licensed Contractor for review, approval and permits issued prior to
10 commencing work.

11 40. If a fire pump is required, the system shall comply with NFPA 20. Three (3) sets of plans and
12 material specification sheets for all equipment used in the system shall be submitted by a State
13 of Washington Licensed Contractor for review, approval and permits issued prior to commencing
14 work.

15 41. An automatic fire alarm system shall be installed. The system shall comply with NFPA 72
16 Standard for Fire Alarm System. Three (3) sets of plans, material specifications sheet for all
17 equipment used in the system shall be submitted by a State of Washington Licensed Contractor
18 for review, approval and permits issued prior to commencing work.

19 42. If an emergency generator is installed. The system shall comply with NFPA 110 and 111. The
20 generator shall be listed in accordance with UL 220. Three (3) sets of plans and material
21 specification sheets for all equipment used in the system shall be submitted for review, approval
22 and permits used prior to commencing work.

23 43. A building permit issued by the City is required when gates are installed on commercial
24 developments. In order for the City to issue the building permit, the following requirements must
25 be met: (A, B, C, D and E) for the three (3) gates.

26 a. Gates shall have an Opticom activation system or an equivalent and compatible system that
27 is approved by the Fire Chief.

28 b. Gates shall have rapid-entry key capabilities compatible with the local fire department per
29 IFC, Section 506.

30 c. All electrically activated gates shall have default capabilities to the unlocked position.

31 d. The minimum clear width of a gate shall be compatible with the required street width.

32 e. Gates that might be obstructed by the accumulation of snow shall not be installed.

33 A vehicular turn-around must be provided in front of the gate. This condition may be
34 modified upon mutual agreement by the Applicant and the Fire Marshal.

21 **Address with following during Construction**

22 44. Make sure you follow Chapter 33 of the 2015 International Fire Code (Fire safety during
23 construction)

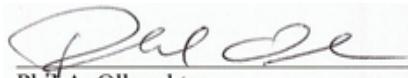
24 **Address with following prior to Certificate of Occupancy**

25 45. Fire extinguishers are required to be installed as directed by City of DuPont Fire Department.
26 Prior to installation the client is directed to request a fire inspection to confirm the locations of
27 the fire extinguishers.

28 46. All new building shall have approved emergency responder radio coverage per section 510 of
29 the 2015 International Fire Code.

1 47. A Knox key box system shall be required. Knox applications may be picked up at the DuPont
2 Fire Department located at 1780 Civic Drive DuPont, WA 98327. A key shall be required to be
3 placed in the Knox key box.
4 48. Prior to Fire Department approval for occupancy, an underground fire line shall be installed. The
5 system shall comply with NFPA 24 Standard for Installation of Private Fire Service Mains. Three
6 (3) sets of plans, material specifications sheets for all equipment used in the system shall be
7 submitted by a State of Washington Licensed Contractor for review, approval, and permits issued
8 prior to commencing work. The FDC shall be a minimum of 50 feet or 1&1/2 times the height
9 of the structure away from the building. The FDC shall be within 50 feet of a hydrant and be
10 5-inch with a locking cap. (Fire Department approval for location)
11 49. The project must comply with the requirements for GIS as-built drawings contained in DMC
12 Chapter 24.10. As-built drawings and submittals shall be submitted and approved prior to
13 issuance of a Certificate of Occupancy for the buildings, or portions thereof.

14 Decision issued June 1, 2020.

15 
16 Phil A. Olbrechts

17 Hearing Examiner

18 **Appeal Right and Valuation Notices**

19 DMC 25.175.010 provides that this decision, as a Type III decision, is final, subject to appeal to Pierce
20 County Superior Court. Appeals are governed by Chapter 36.70C RCW.

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