



## Administrative Staff Report

**Report Date:** October 11, 2022

**Application Submittal Date:** December 09, 2021

**Application Complete Date:** January 07, 2021

**Project Name:** APPLE TREE POINT HIGHLANDS -MINOR AMENDMENT

**Type of Application:** Preliminary Plat Amendment Type -II

**Permit Number:** 20-05800

### Project Location

NE Apple Tree Point Lane  
Kingston, WA 98346  
Commissioner District 1

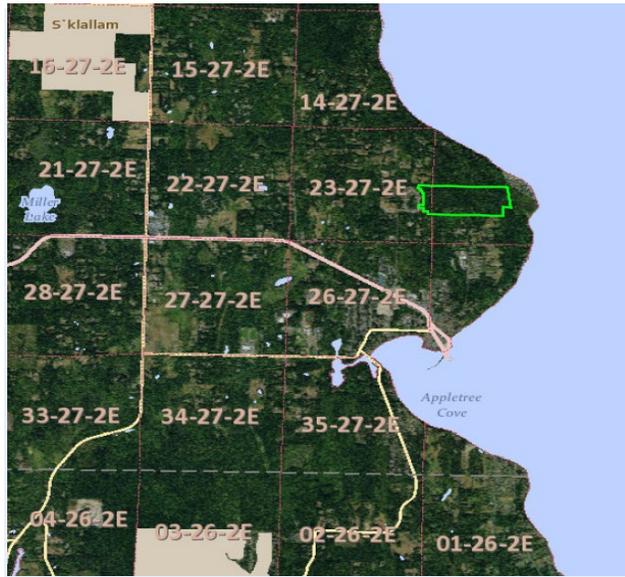
### Assessor's Account #

5641-000-008-0006  
5553-000-033-0209  
5553-000-033-0100  
5553-000-033-0001  
242702-1-006-2007

### Applicant/Owner of Record

David Fortune  
250 E 1<sup>st</sup> St, Ste 301  
Los Angeles CA, 90012-3819

### VICINITY MAP



### Decision Summary

Approved subject to conditions listed under Section 13 of this report.

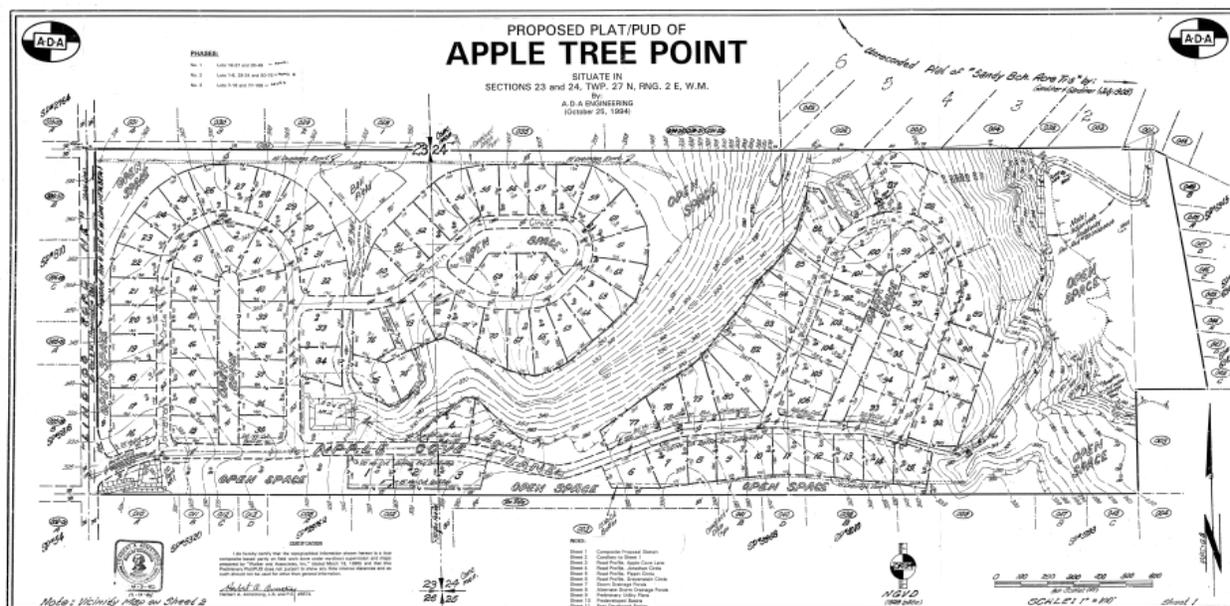
### 1. Background

The request for the Phase 3 Minor Amendment is to Preliminary Plat/Performance Based Development (PUD), Shoreline Substantial Development Permit (SSDP), File 19-00611 and Site Development Activity Permit (SDAP) File 19-02164. The vested 26-year-old preliminary project approval is required to comply with preliminary conditions of approval for the Plat/PUD. The purpose of the Minor Amendment for Phase 3 is to: 1. Reduce the number of lots from 44 to 42 on a 30.82-acre portion of the 73.78-acre parcel; 2. Reconfigure to better preserve open space and native vegetation while providing better usable land for lots with septic systems; and 3. Renumber the lots with an amended lot layout. The remaining 42.96 acres will be undisturbed through the construction of Phase 3. Two lots may be added to Phase 2 in order to keep the project lot total the same as originally approved. The associated improvements will include paving of the existing gravel surface, along with the addition of a

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pedestrian walkway and associated utilities to support the development site. The applicant has agreed to design the stormwater facilities to the October 4, 2021 Kitsap County Storm Drainage Manual.

### Exhibit Approved Plat



The Phase 3 revision includes a separate Shoreline Substantial Development Permit (SSDP) which consists of installing a below-ground infiltration gallery and approximately 2,400 linear feet of new storm drainage piping to convey treated stormwater overflow to the Puget Sound shoreline. The stormwater from Phase 3 would be collected in a detention pond within the Apple Tree Point Project and conveyed in an High-Density Polyethylene (HDPE) pipe down the slope, above-ground across a wetland with wetland augmentation and released at a mitigated rate to a below-ground infiltration gallery located in a sand dune on property located at 12020 NE Apple Tree Point Lane, Kingston.

### *Vesting and Historical Application*

Apple Tree Point development is a vested rural planned unit development, approved by the Kitsap County Board of Commissioners on January 22, 1996. There are 41 existing lots for Phases 1A and 1B. There was no project phasing proposed in 1996. Originally, the Apple Tree Point Highlands LLC preliminarily plat/PUD request was for 106 lots on 123 acres. The Hearing Examiner approved the plat/PUD for 73 lots on October 31, 1995. The Board of County Commissioners preliminary approval for the plat/PUD was for 106 lots with modifications to the conditions of approval on January 22, 1996. The Association of Rural Residents later appealed the project to King County Superior Court. The Association appealed the King County Superior Court decision. The Court of Appeals Court affirmed in part and reversed in part in 1999 the issues relating to urban growth area designation and vesting of the PUD. The Supreme Court remanded the case back to Superior Court for

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reconsideration on the Superior Court's ruling on the SEPA threshold determination. There were concerns of probable significant adverse impact on the environment with respect to traffic, pollution, unstable slopes and wildlife.

The following were the issues remanded by the Appellant and Superior Court:

- a. Reconsideration of the Threshold Determination.
- b. Traffic
- c. Groundwater/steep slopes

*Staff comment: The following staff report for the minor amendment and the staff report associated with the Shoreline Substantial Development Permit documents and provides findings that support the proposal, consistent with the remand.*

### 2. Project Request

The applicant is requesting a Minor Amendment to Phase 3 of the Hearing Examiner decision dated, October 30, 1995 for the Apple Tree Point Rural Planned Unit Development.

### 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.

#### COMMENTS:

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated August 22, 2021. The comment period was 30 days. There were several comments received related to the outfall structure, stormwater erosion concerns at the outfall location, maintenance responsibilities, wetland concerns, and for shellfish water quality concerns. Concerns will be addressed in the following conditions of approval, and within the staff reports for the Shoreline Substantial Development permit and the Minor Plat amendment. A Determination of Nonsignificance (DNS) was issued on August 03, 2022. SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions 26-29 at the end of this report:

**CONDITIONS:**

1. This decision incorporates the SEPA conditions and associated findings of fact from the original Plat/PUD application under a SEPA Mitigated Determination of Non-significance, issued on July 20, 1995. The plat is vested to this associated MDNS and rural plat decision. Recommendations from the minor plat amendment approval shall also be guided by this SEPA decision, including density revisions, Open Space tracts, landscaping, off-site parking requirements and vested rural road standards.
2. The project will be conditioned to follow all conditions of approval within the 2014 Shoreline Master Program, per KCC Title 22. The outfall for stormwater overflow has been revised to be an infiltrator system, buried beneath shoreline dune deposits via easements with private landowners. The area will be vegetated with dune grass plantings to reduce erosion concerns, per the no net loss biological report by Soundview Consultants and others.
3. Stormwater Maintenance will be initially conducted by the applicant until such time that the system is accepted by Kitsap County Clean Water Kitsap (KC Public Works, stormwater management). The system will be bonded, and a stormwater operator's design and maintenance manual will be provided through implementation of the associated Site Development Activity Permit.
4. The project will be conditioned to follow all requirements of the Critical Area Ordinance in effect at time of application. As modified, wetland impacts will be conditioned to follow KCC Title 19.200. Wetland impacts will be minimized by careful installation of the above-ground pipe, which will be founded on pin-piles over the wetland surface. The associated perimeter of the pipe will be re-vegetated with native plantings, per the mitigation planting plan.
5. The project will be conditioned to follow all recommendations of the associated geotechnical studies for the project, per KCC Title 19.400.
6. The proposal will be conditioned to follow the stormwater design manual, per KCC Title 12. The manual guiding the project is from 1994 Stormwater will be treated prior to discharge and infiltrated into dune soils. We recommend that outfall water quality be tested periodically to assure that shellfish is not contaminated by facility discharges.
7. The proposal will be reviewed and shall be consistent with the SMP and the 2016 Kitsap County Comprehensive Plan.
8. Traffic management will be conditioned to follow the vested application, per KCC Title 11 (Road Standards).

The SEPA appeal period expired August 12, 2022. No appeals were filed; therefore, the SEPA determination is final.

**4. Physical Characteristics**

The gross acreage of the existing site 123 acres, and Phase III containing building lots is 23.60 acres, which is undeveloped, except for an existing gravel portion of Apple Tree Cove Lane which stretches generally westward to eastward/northeastward across the property. The site

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is 42.96 acres (total disturbed area 11.43 acres). The remainder of the site is forested, consisting primarily of second growth trees with moderately heavy underbrush. Steep slopes border the proposed development to the east and west. One wetland was identified to the southeast of the project. Onsite slopes range from moderate to steep. Site soils are primarily classified as Indianola-Kitsap complex, Poulsbo-Ragnar complex, and Ragnar Fine Sandy Loam. The Indianola-Kitsap complex and Ragnar Fine Sandy Loam are Hydrologic Group A soils which exhibit moderately high infiltration potential, while the Poulsbo-Ragnar complex consists of Hydrologic Group B/D soils with a high degree of fine particles and low infiltration potential. Due to variability in soil properties across the site as well as hazards associated with infiltration immediately adjacent to steep slopes, infiltration is considered infeasible as a primary means of stormwater management.

The proposed developed area is located at a relative topographic high and, as such, surface water generally drains overland in two distinct flows across the project site. Runoff on the west portion of the site travels generally north, northwestward as sheet flow before channelizing in a ravine on the western portion of the property and flowing generally northeastward to an ultimate discharge into Puget Sound. Runoff on the easternmost portion of the proposed development drains overland as sheet flow to the northeast, discharging over steep slopes.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Residential Zone: Rural 2.5 (Ru-2.5)	Standard	Proposed
Minimum Density	NA	42
Maximum Density	1 dwelling per 2.5 acres	
Minimum Lot Size	2.5 acres	17,100 sf
Maximum Lot Size	N/A	24,757 sf
Minimum Lot Width	NA	83'
Minimum Lot Depth	NA	151'
Maximum Height	30 feet	2 stories, <30 feet
Maximum Impervious Surface Coverage	50%	~299,693 (6.88 ac) or 16%
Maximum Lot Coverage	NA	NA

Applicable footnotes:

*Staff Comment: The previous 1977 Comprehensive Plan states that Rural lands for those areas where urban, semi-urban, or semi-rural development should not occur, and residential sprawl is to be discouraged. The development of platted lots without a planned unit development has a maximum density 1 dwelling unit per 2.5 acres on non-waterfront property and 2 units per acre on waterfront property. The purpose of rural lands is to preserve to the maximum extent feasible the rural lifestyle of the county. The intent of rural PUD's should not convert lands that are significant environmentally sensitive areas. PUD's*

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*associated with these areas bear a higher burden to avoid adverse impacts and should indicate that open space areas will continue to perform these natural functions.*

**Zoning Ordinance Bulk Regulations****Table 2 - Setback for Zoning District**

	Standard	Proposed
Front	15 feet	15 feet
Side	15 feet	15 feet
Side	15 feet	15 feet
Rear	25 feet	25 feet

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Undeveloped multiple parcels	Ru-2.5 <i>[Existing Rural Residential (RR)]</i>
South	Single-family Residence/undeveloped /forest land	Residential R-2 Mobile Home (R-2 MH) (Existing RR)
East	Single-family residences waterfront	Ru-2.5 (Existing RR)
West	Single-family residences	Ru-2.5 (Existing RR)

**Table 4 - Public Utilities and Services**

	Provider
Water	Kingston Water System (KPUD #1)
Power	Puget Sound Energy
Sewer	Individual on-site septic systems
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

**5. Access**

The preliminary plat/PUD Phase 3 receives access from Lindvog Road NE and NE Apple Tree Point Lane which have a functional classification as local access roads. Lindvog Road NE intersects with State Route 104 to the south which has a functional classification as a principal arterial. The subdivision's internal road network will be public and maintained by Kitsap County. The road becomes private approximately 180' east of the Gravenstein Loop NE intersection with NE Apple Tree Point Lane (Tract F), which provides access to private waterfront property owners.

**6. Site Design**

The proposed minor amendment to the Preliminary approved rural plat/PUD was reviewed

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for consistency with requirements pursuant to Chapter 16.04.040 Amendments to approved Preliminary Subdivisions. The preliminary plat/PUD was required to comply with subdivision standards for utilities, roads, pedestrian access, landscaping and recreation facilities.

### 7. 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 on August 2, 1977

North Kitsap Subarea Plan, adopted April 1984

*(See policies from the Comprehensive plan and North Subarea in previous staff report dated September 8, 1995). The project was reviewed per the Kitsap Zoning Ordinance, adopted June 1983 and last amended March 1, 1990 (Ordinance 93-M-1989).*

The following Comprehensive Plan goals and policies are most relevant to this application:

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
Title 12	Storm Water Drainage (1997)
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 16	Land Division and Development
Chapter 16.04	Subdivisions
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures
No. 93 L (1989)	Kitsap County Zoning Ordinance, Amended March 1990
Section 6	Residential Zones
Section 10	Bulk Regulations- PUD
Section 14	Planned Unit Development
Chapter 19	Critical Areas Code
Chapter 22	Shoreline Master Program

### 8. Documents Consulted in the Analysis

Applicant Submittals

Administrative Type-II Application

Dated or date stamped

December 10, 2020

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Geo Tech Report	December 10, 2020
Meyers Biodynamics Geotechnical Report	December 10, 2020
Environmental (SEPA) Checklist	December 20, 2020
Revised Site Plan	August 16, 2022
Plot Map	April 4, 1996
Storm Drainage Report	December 08, 2020
Final Health District Approval	August 17, 2017
Project Narrative	December 28, 2017
Updated Sound View Wetland Report	December 03, 2019
Hydrogeologic Report	December 04, 2020
Hearing Examiner Decision	October 30, 1995
Superior Court King County	February 7, 2002
Master Plan	November 15, 2021
Original Staff Report	September 14, 1995

Staff CommunicationDated

Dev. Services & Engineering Memo	January 29, 2018
SEPA Determination of Nonsignificance	July 29, 2022

**9. Public Outreach and Comments**

Pursuant to KCC Title 21, Land Use, and Development Procedures, the Department gave proper public notice for the minor preliminary plat amendment. To date, the Department has received public comments on the current proposal (See list of interested parties in Notice of Decision). We received comments from Kerry and John Barlow, Hulthen Yanggon, Stephen King, and Melissa Fleming.

The following is a summary of issues the Department received from the public for the 2014 request for the preliminary plat:

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1	The neighbors east and below the site near the shoreline have concerns that the design of the storm drainage pipe may impact the only ingress and egress to their homes. The pipe is proposed to go down a very steep and unstable slope from the uplands. Should there be a landslide, there would not be access for about 30 homes.	Barlow
2.	Who is responsible for maintenance for the storm drainage pipe down to the shoreline and how is it documented?	Barlow
3.	What assurances are there that this party is financially capable of meeting these potential obligations?	Barlow

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4.	Concerned about the ecological impacts the discharge will have on the beach and the wetlands and marine life.	Barlow
5	PSE replacement of electrical cable	Barlow

Issue Ref. No.	Issue	Staff Response
1.	Pipe Failure	Kitsap County DCD Development Engineering has reviewed the geotechnical, hydrology and preliminary storm drainage reports for downstream analysis, slope stability and public safety required by Kitsap County Code and the King County Superior Court remand. During peak storm events the storm drainage system as proposed is designed to protect the hillside and meter storm drainage flows to the wetland and the Puget Sound. High-density polyethylene pipe is proposed for much of the line and should provide structural integrity for over 50 years.
2.	Storm Drainage Maintenance	Kitsap County Public Works, Clean Water Kitsap Division and DCD Development Services and Engineering require storm drainage systems to be bonded and certificated after 2 years of operation. The proposed storm drainage concept changed from the original approval with overflow drainage from the ravine west of Phase 3, to the saltwater shoreline. Kitsap County will not perform the storm drainage facility outfall maintenance, as county trucks cannot negotiate the steep narrow private road. The developer will convey the system to the HOA for maintenance. (See Condition of Approval #25)
3.	Financial Obligations	The Preliminary Plat/PUD will be conditioned for the Homeowners Association (HOA) to take over ownership for management of the plat open space, any private roads, storm drainage facilities and applicable utilities. Washington State updated laws governing HOA's for maintaining a cash reserve RCW 64.90.545). A reserve study professional is responsible for the determination of the amount of cash reserves to maintain the improvements within the development. The developer has agreed that the HOA will assemble a budget based on a reserve study for Phase-3 for maintenance of the storm drainage facilities, consistent with current State law

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4.	Impacts to Wetland and Shoreline	Sound View Wetland Consulting prepared an updated wetland delineation report and habitat management plan, dated November 4, 2021. The report identified one wetland and associated stream within the study area (Wetland A) which is classified as a Category II depressional wetland with habitat score of 8 (150-foot buffer). The southern portion is located within the Rural Conservancy designation with the Shoreline Master Program jurisdiction (see SDAP 19-00611) and stormwater will be collected and treated in the detention facility before being conveyed to the storm drainage line. The stormwater pipe will be mounted on pin piles over the wetland and below the ground within the 100-year floodplain. The project proposal includes a portion of the stormwater which will be metered into the wetland buffer to maintain wetland hydrology. Pursuant to KCC 19.200.225.E, stormwater impacts are permitted when there are not feasible alternatives. Temporary impacts are calculated at 3,614 square feet for pipe construction and temporary impact to the wetland buffer. The impaired area will be required to be restored and plant augmentation is required to provide screening of the above-ground pipe system.
5	PSE Cable Replacement	It is best management practices to coordinate construction of facilities and utilities whenever possible. However, different agencies have different work programs which are tied to funding and projects may not line up.

**10. Analysis**

**a. Planning/Zoning**

The proposed Apple Tree Point Highland Preliminary Plat was originally reviewed for consistency with requirements pursuant to Preliminary Subdivision Chapter 16.24 Land Segregation Standards, Chapter 16.40 Subdivisions and Zoning Ordinance #93 L (1989). The intent of Rural 2.5 zone is to preserve rural lands to the maximum extent feasible to preserve the rural lifestyle of the county. The intent of rural PUD's should not convert lands that are significant environmentally sensitive areas. PUD's associated with these areas bear a higher burden to avoid adverse impact and should indicate that open space areas will continue to perform these natural functions. The rural Planned Unit Development was reviewed and vested to Section 10, PUD Bulk Regulations of the Zoning Ordinance.

**b. Lighting**

Pursuant to KCC 11.40 Street Lighting, street lighting is required at the intersection where public or private roads intersect with County right-of-way.

**c. Off-Street Parking**

Consistent with zoning requirements the proposal includes off-street parking. The applicant is proposing 84 off-street parking spaces in driveways. The applicant anticipates overflow parking will also be located within driveways as well. During review of individual building permits for the homes, the location and number of off-street parking spaces will be verified on the individual site plans.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family Residential	2 per unit + 0.5 per unit on street or set aside	(42 unit) 84 off-street and no on-street or set aside = 84	84 off-street parking
Total		84	84

**d. Signage**

Pursuant to KCC 17.510. Sign Code the applicant can apply for signage near the entrance of the subdivision during or after construction. Signage is not proposed at this time. To be consistent with 17.510.060.M Conditionally Exempt signs - Real Estate Signage Program, when the final plat is recorded to establish the subdivision and lots are for sale, signage will be allowed.

**e. Landscaping**

The preliminary plat/PBD required 50% open space with screening “No-Cut” natural buffers in separate tracts around the perimeter of the plat, along top of slope buffers with setbacks above and within ravines. Along the southern property line are 20-foot-wide tracts (Tracts I and H) and 15-foot “no cut vegetation zones on the property.” Consistent with the preliminary approval the applicant is also maintaining 20-foot “no cut” zones.

There are 20-foot no cut zones along both sides of NE Apple Tree Point Lane to help provide a visual screen for the traveling public. The buffer will also provide screening for property owners that live along the roadway from the traffic noise and headlight glare. The project site is 123 acres (5,357,975 sf), the open space and no-build areas within the plat total approximately 58 acres (2,523,731 acres). The proposal includes 0.33 acres (14,476 sf) of no cut buffer along the south property line and 70,713 sf native growth

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protection easement along the roadsides of NE Apple Cove Lane, outside of the right-of-way.

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft) 50% of Site	50%	47%
Required Buffer(s) 17.500.025		
North	Native Vegetation Buffer	Native Vegetation Buffer
South	Native Vegetation Buffer	Native Vegetation Buffer
East	Native Vegetation Buffer	Native Vegetation Buffer
West	Native Vegetation Buffer	Native Vegetation Buffer
Street Trees	No *	No*

\* Instead of street trees, a rural native growth protection easement outside of the right-of-way along the roadsides of NE Apple Cove Lane is required.

**f. Frontage Improvements**

Consistent with Kitsap County Road Standards and Comprehensive Plan policies, the preliminary plat does not require frontage improvement along urban areas, but only rural frontage improvements internal to the plat along the public roadway. The applicant is proposing 20-foot wide roadway sections for vehicular access within 60-foot right-of-way and shoulders for drainage and pedestrian access.

**g. Design Districts/Requirements**

*The applicant proposes to revise the Preliminary Plat approved via Hearing Examiner, Case No. 950914 079 (A & B), dated October 30, 1995, as it related to Phase 3. Proposed revisions include reduction in the lot count in Phase 3, from 44 lots to 42 lots; renumbering of the lots; and reconfiguration of the lots. The plat is rural and outside of the Kingston Urban Growth Area and the Kingston Design Standards Analysis.*

**h. Development Engineering/Stormwater**

The Phase 3 of the preliminary Plat proposed stormwater facilities include developed condition flows associated with the onsite basin which will be collected and routed to a proposed detention/wet pond facility (Pond A) located within stormwater/detention Tract D, at the northern extent of the proposed development. Due to vertical constraints onsite, a portion of developed lot and ROW area near the southwest corner of the site is considered to lie within a second basin (Onsite Basin B) and will be routed to a secondary detention/wet-pond facility (Pond B) located within Stormwater/

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Detention Tract K in the developed condition. In compliance with the requirements within the 2021 Kitsap County Stormwater Manual, all runoff from developed/disturbed surfaces will be collected, treated, detained and released to natural drainage courses at mitigated rates. Detention and flow control calculations were performed. Due to slope stability concerns associated with discharging stormwater over steep slopes, treated/mitigated flows will discharge from the pond into a system of catch basins and closed pipe which will route stormwater offsite to an infiltration/direct discharge facility located along the Puget Sound shoreline. The proposal includes a split flow of storm drainage conveyance. A portion of the storm water flows will be metered and discharged into the wetland at the base of the slope so to help maintain wetland hydrology located at the base of the slope. The storm drainage outfall requires a Shoreline Substantial Development Permit as required per KCC Title 22 (see 19-00611). Public Works Clean Water has determined that the department cannot accept the maintenance of the storm drainage facilities due to the condition of the private road to service the pipe and outfall. As required by the Site Development Permit, as part of the final approval the applicant is required to prepare an Operation and Maintenance Manual to demonstrate how the drainage system within the plat and to the shoreline will be privately maintained.

### **i. Environmental**

The Kitsap Resource Maps show a variety of critical areas on the subject property. The area on the east side where Phase 3 is proposed is undeveloped. The area includes multiple streams that drain towards the Puget Sound. A stream ravine is located near the center of the property between Phase 2 and Phase 3, with a non-fish stream that drains north. The ravine contains slopes over 45% and classified as Moderate Erosion Hazard Area. The eastern side of the property slopes intensely from the west to the east and contains Landslide Hazard Areas, High Erosion Hazard Areas and Moderate Seismic Hazard Areas. Additionally, the entire subdivision is located adjacent to a Kitsap Public Utility District #1 wellhead and is within a Category-1 Critical Aquifer Recharge Area. The residential plat is not classified as a potential threat to groundwater contamination requiring an analysis as noted in the hydrogeological report.

#### *Geologic Hazard Area:*

Geotechnical analysis was performed with the original preliminary plat/PUD with 25 test pits located along the top of slope by General Testing Laboratories. This report provided strict controls on lots with onsite septic and near steep slopes. During the appeal, analysis of steep slopes, was previously completed by Meyers Bio Dynamics. The other issue was hydrogeological analysis to address storm drainage and hydrogeological loading on the hillside in relationship to the onsite septic systems. The applicant has submitted an updated report by Earth Solutions NW, LLC, dated January 22, 2019, to address and confirm site hydrology, slope stability and water balance as discussed in the previous reports. The applicant is proposing a 40-foot buffer and setback. The proposed

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minor amendment addresses geologic hazard areas, and the applicant proposed reconfiguration of Phase 3 and reduced the number of lots from 44 to 42 lots.

### *Wetlands*

A wetland delineation report for the site was conducted by Wiltermood and Associates, Inc. A total of six wetland seeps were identified on the eastern portion of the site. Specific recommendations were made on the wetland area. The applicant has submitted an updated wetland report by Sound View Environmental, dated December 3, 2019, to monitor wetland functions and provide analysis on the storm drainage system and help maintain wetland static water levels to maintain wetland and wildlife functions. Sound View identified one wetland and associated stream within the study area (Wetland A), which is classified as a Category II depressional wetland with habitat score of 8 (150-foot buffer). The southern portion is located within the Rural Conservancy designation with the Shoreline Master Plan. Pursuant to KCC 19.200.225.E, stormwater impacts are permitted when there is not feasible alternative. The temporary impacts total 3,614 square feet for pipe construction and temporary impact to the wetland buffer will be required to be restored. A wetland mitigation plan will be required through the SDAP, which will include a planting plan, a plant schedule (materials and labor) and a monitoring plan for up to 5 years.

### *Wildlife Habitat*

A wildlife survey was conducted on the subject property by Wiltermood and Associates which was contained in a report dated November 11, 1991. This report was updated to address the specific proposal on October 15, 1994. The report concluded that no endangered, threatened or special species were observed on the project site. Sound View Environmental updated the wildlife information associated with mitigation of wetland impacts.

#### **j. Access, Traffic and Roads**

Access is from Lindvog Road at a rural level of service. The original impact traffic analysis estimated 1,090 daily vehicular daily trips on Lindvog Road on average weekday. The Minor amendment does not propose changes to access to the preliminary plat/PUD. The applicant prepared traffic impact analysis to analyze potential impact to the local road network. The proposal is to reduce Phase III by two lots from 44 to 42 and reducing the average daily trips by 20 vehicle trips. Projections indicate that the local road network can support the additional trips. Since the original approval, the County and WSDOT have made traffic safety improvement to the intersection at Lindvog Road and SR-104 improving the operation of the intersection.

#### **k. Fire Safety**

The project will include a water main extension to serve the 42 lots and will include fire hydrants with emergency vehicle access consistent with the requirements of KCC Title

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14 Building and Fire code. The project will be reviewed for consistency with fire and life safety requirements at the time of Site Development Activity Permit.

**I. Solid Waste**

Individual property owners will be responsible for solid waste collection. Waste Management approval is required for solid waste service for the plat and will be reviewed with the SDAP.

**m. Water/Sewer**

The project is a Rural Planned Unit Development and did not require an urban level of service. The applicant has provided documentation that water service is available through Kitsap Public Utility District No. 1. The applicant entered into Development Agreement with KPUD for extension of water service on October 24, 2019. Dwellings will be served by individual onsite septic systems which is consistent with a rural level of service.

**n. Recreational Facilities**

Public and private outdoor-oriented recreational facilities may be permitted in all areas of the County where natural conditions permit. The PUD incorporates recreational facilities within the designated open space.

**o. Kitsap Public Health District**

Prior to preliminary approval, the applicant dug approximately 146 test pits across the entire plat. The Kitsap Public Health District has reviewed the preliminary plat/PUD and the minor plat amendment. The District reviewed the test pits for septic design and water and depth to hardpan. The District determined that the site is generally suitable for onsite septic. A total of 9 lots, which 6 of the 9 are in Phase 3 need approved Building Site Applications to be required prior to Final Plat approval to ensure that all lots can be supported by onsite sewage disposal (renumbered lots 12, 22, 23, 24, 25, and 26). To address geologic hazard issues on lots that border steep slopes, the drainfields should be located to the furthest practical location.

Kitsap Public Health District inspectors have reviewed the existing soil logs within the plat/PUD. In December of 2019, the District determined full BSA's were required for Lot 24, 25 and 26. It was noted that Lot 26 was extremely wet. It was also noted that Lots 10,11 and 12 had a deep cut running along the front which should also be included in the review. The Applicant submitted plans prepared by A+ Onsite LLC septic designs for Lots 24, 25 and 26.

**Staff Evaluation of Decision Criteria:**

**11. Review Authority**

The Minor Amendment to Preliminary Plat application under KCC, Sections 16.40.040 and 21.04.100 is a Type II decision. The applicant is proposing a Minor Amendment for Phase 3

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to reconfigure property lines, renumber the lots, and reduce the number of lots from 44 to 42. In addition, the applicant has reconfigured open space areas and maintained natural areas around the perimeter.

The Director has review authority for this Minor Amendment to the Preliminary Subdivision application under KCC, Sections 16.40.040 and 21.04.100. The Director may approve, approve with conditions, or deny Minor Amendment to the Preliminary.

### 12. Findings

Written Findings: A proposed minor subdivision amendment may be approved if the Director makes written findings that all the following are satisfied. If one or more are not satisfied, the application must proceed as a major amendment. Criteria, which must be met, are outlined in Kitsap County Code 16.40.040, Items 1, and 2a through j. Preliminary Plat Amendment. The following are staff findings that address the criteria for the minor amendment:

1. The proposal does not result in significant impacts to the subdivision or the surrounding property. Impacts may include, but are not limited to, storm water, traffic, open space, landscaping, screening, on-street or set-aside parking, or noise.

Applicant Response: The minor amendment requested does not result in significant adverse impacts to the subdivision or surrounding property. The changes to individual lot lines, lot numbering, and the reduction in the total number of lots in this phase cause no adverse impact. The amount of open space is increased which helps mitigate impacts. The stormwater design was engineered based on subsequent required studies, recommendations, and complies with applicable stormwater standards.

Staff Comment: *The applicant is proposing only minor changes with the reduction of number of lots, addition to open space and stormwater mitigation. The request should not result in significant adverse impacts within the subdivision and to surrounding properties.*

2. The proposal satisfies the applicable general requirements of this title.

Applicant Response: The minor amendment request satisfies all applicable general requirements of the current Kitsap County Code and vested requirements.

Staff Comment: *The request is consistent with the goals and policies of the comprehensive plan at the time, compatible with surrounding uses, and addresses concerns that the project will not be detrimental to the health, safety, or welfare with the neighborhood.*

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3. The proposal does not result in a change of use.

Applicant Response: The minor amendment does not result in a change of use. A single-family subdivision is still proposed. The number of lots are reduced from 44 lots to 42 lots in the Phase 3 area.

Staff Comment: *Staff concurs with the Applicant Response.*

4. The proposal falls within the scope of the original approval and complies with the intent of the conditions originally imposed.

Applicant Response: The minor amendment falls within the scope of the original approval and complies with the intent of the conditions as originally imposed.

Staff Comment: *The minor plat amendment is consistent with the intent of the decisions by Hearing Examiner, dated October 31, 1995, Board of County Commissioners, dated January 22, 1996, and the Superior County remand.*

5. The proposal does not change the perimeter boundary of the original plat, or the boundary of any phases within the original plat.

Applicant Response: The minor amendment does not change the perimeter boundary of the original plat. The boundary of Phase 3 area is slightly reduced as original lots two lots were eliminated near the north east corner of Phase 3 because of steep slopes in that area, which creates more open space.

Staff Comment: *The applicant is not proposing to expand the perimeter boundaries of the single-family development. Staff agrees there will be a net increase to open space (+/- 2.97 acres).*

6. The proposal does not increase residential density by greater than 10%, provided the density requirements of the zone are maintained consistent with the zone.

Applicant Response: The minor amendment requested a decrease in the residential density of the Phase 3 area and in turn will help provide mitigation to potential environmental impacts.

Staff Comments: *The applicant is only reducing the number of residential lots by two, approved through the preliminary land approval and is consistent with the above requirement.*

7. The proposal does not increase the intensity of housing types; for example, from detached single-family to attached one and two-family dwellings.

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Applicant Response: The minor amendment does not change the type of housing as single-family homes were proposed and are still proposed. The number of lots are decreased from 44 to 42.

Staff Comment: The housing within the plat will remain detached single-family dwellings.

8. The proposal does not reduce the designated perimeter buffers, recreation or open space areas by more than 10%.

Applicant Response: The minor amendment does not alter the designed perimeter buffers. The open space is increased by approximately 2.59 acres.

Staff Comments: *The minor amendment does not reduce the required open space and required buffers areas as conditioned through the Hearing Examiner's decision.*

9. The proposal does not reduce or increase the number of access points or significantly alter the location of the access points.

Applicant Response: The minor amendment does not alter the approved access points.

Staff Comment: *The proposed minor amendment to the preliminary plat will not alter the plat access.*

10. The proposal does not reduce required setbacks; and

Response: The minor amendment maintains the setbacks approved with the preliminary plat application.

Staff Comment: *The required setbacks will not be reduced by this amendment and are vested to the project approval. The policy is to require building setbacks on the face of the final plat.*

11. The proposal does not reduce any street frontage improvements (e.g., sidewalks, curb/gutter, and bicycle lanes).

Response: The minor amendment does not alter the street frontage improvements.

Staff Comment: *The minor amendment does not change the frontage improvements conditioned by the previous approval. The applicant is*

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*preserving the 20-foot buffer zones conveyed by easement along property frontages on NE Apple Tree Point Lane. The frontage improvements for Lindvog Road NE conditioned in the land use decision were implemented through the construction of Appel Tree Point Highlands Phase 1A.*

12. The proposal is consistent with the Comprehensive Plan.

*Staff Comments: The request is consistent with the goals and policies of the comprehensive plan at the time, compatible with surrounding uses, and address concerns that the project will not be detrimental to the health, safety, or welfare with the neighborhood.*

13. The proposal complies or will comply with requirements of KCC and complies with or will comply with all the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.

*Staff Comment: The proposal is consistent with vested regulations and current applicable regulations in the Kitsap County Code. In addition, the proposal is consistent with all remand issues that were mandated by the courts, which includes traffic, storm drainage, groundwater (hydrology) and reduced density related mitigating for Geologically Hazardous Areas.*

14. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.

*Staff Comments: The rural plat/PUD maintains open space with natural vegetation "no-cut" buffers around the perimeter to provide a functional screen of the intensive residential use.*

15. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

*Staff Comments: The proposal continues to incorporate features to promote rural compatibility. The minor amendment does not change the frontage improvements conditioned by the previous approval. The applicant is preserving the 20-foot buffer zones conveyed by easement along property frontages on NE Apple Tree Point Lane.*

### 13. Decision

Based upon the analysis above and the decision criteria found in KCC 16.40.040.A, the Department of Community Development recommends that the Minor Amendment to the

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Preliminary Subdivision request for Apple Tree Point Highlands be **approved**, subject to the following 47 conditions:

**a. Kitsap Public Health District**

1. All applicable Bremerton-Kitsap County Health Department regulations shall be adhered to prior to final approval including those conditions set forth in their letter dated February 16, 1995 as follows:
  - a. Water to be provided by PUD No. 1 of Kitsap County. Individual building site applications will require a binding water availability letter, subject to water rights sufficiency. **This condition remains and is unchanged.**
  - b. Soils on-site appear able to support on-site septic Care must be used when clearing so that no Soils are generally good in Phase I Soils in the eastern sections of Phase III and b. systems. soils are removed. and II. IV are much shallower and tighter in nature. **This condition remains and is unchanged.**
  - c. Lots with shallow soils may require alternative treatment consisting of pressure distribution, pressurized mound systems, sand filters, or other Type 2 treatment devices. **This condition remains and is unchanged.**
  - d. Prior to final approval, Building Site Applications for onsite sewage disposal (BSA's) are required for the following lots: Lots 15, 34, 86, 87, 88,89,90,91, and 92. **This condition remains and is revised to require notation on the Final Plat (renumbered lots 12, 22, 23, 24, 25, and 26).**
  - e. The above lots may require separate off lot drainfield easements to be located in open space areas. All Easements must be recorded prior to final approval. **This condition remains and is unchanged.**
2. The requirements of Kitsap Public Utility District No. 1 (KPUD) and the County Health District and State Health Department shall be met regarding the design and installation of the water system. **This condition remains and is unchanged.**

**b. Development Engineering**

*GENERAL*

3. All Engineering Division conditions of this proposal are based upon the review of the preliminary plat received April 5, 1995. **This condition remains and is revised to reference appropriate DCD division and submittal dates.**

**Revised Condition 9.A.1:** All conditions of Development Services and Engineering are based upon the review of the preliminary plat received April 5, 1995, and as revised by the Preliminary Plat Amendment application materials accepted for review December 31, 2020, and December 17, 2021.

4. Construction of all roads, storm drainage facilities and appurtenances shall be contingent upon approval of construction plans and profiles by the County Engineer and no construction shall be started prior to said plan approval. **This**

**condition remains and is revised to reference appropriate Kitsap County Department.**

**Revised Condition 9.A.2:** Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County Department of Community Development for review and acceptance. No construction shall be started prior to said plan approval.

5. The interior roads of the proposed plat shall be built to County standards and publicly maintained, and the right-of-way dedicated to Kitsap County as proposed, except for the private easement road shown on the preliminary plat which will remain private. **This condition remains and is unchanged.**
6. The approach to the private easement road shall be constructed as a tee intersection with Apple Cove Lane and Austur Vegur. **This condition remains and is unchanged.**
7. Vertical curves shall meet AASHTO sight distance requirements for a 25-mph design speed. **This condition remains and is unchanged.**
8. Horizontal curves for public roads shall have minimum centerline radii of 125 feet. **This condition remains and is unchanged.**
9. All rights of access for adjoining properties currently in existence shall be preserved and documented on the face of the final plat. An amendment to the existing easement rights of adjoining property owners shall be properly executed and recorded prior to final plat approval. **This condition remains and is unchanged.**
10. All lots shall access from interior roads only. **This condition remains and is revised to require notation on the Final Plat.**

**Revised Condition 9.A.9:** All lots shall access from interior roads only. This note shall appear on the face of the Final Plat.

11. The applicant's engineer shall certify to the County Engineer that there is adequate entering sight distance at the intersection of Lindvog Road NE and the proposed plat approach, certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The certification shall also note necessary measures to correct and maintain the minimum sight triangle. **This condition remains and is**

**revised for clarity.**

**Revised Condition 9.A.10:** The applicant's engineer shall certify that there is adequate entering sight distance at the intersection of Lindvog Road NE and the proposed plat approach. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.

12. The applicant's engineer shall certify to the County Engineer that there is adequate intersection sight distance at all interior intersections. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The certification shall also note necessary measures to correct and maintain the minimum sight triangle. **This condition remains and is revised for clarity.**

**Revised Condition 9.A.11:** The applicant's engineer shall certify that there is adequate intersection sight distance at all interior intersections. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.

13. The property owners within the plat shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, sidewalks, storm drainage facilities, and signage. A note to this effect shall appear on the face of the final plat map. In addition, the Department of Public Works reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design. **This condition remains and is revised to reference the appropriate Kitsap County Department.**

**Revised Condition 9.A.12:** The property owners within the plat shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, sidewalks, storm drainage facilities, and signage. A note to this effect shall appear on the face of the final plat map. In addition, the Department of Community Development reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.

14. Apple Cove Lane will have to be 60 feet right-of-way for its entirety, so the

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proposed cross-section can be constructed. The proposed pedestrian shoulder shall be maintained by the Homeowners Association and a note to that effect shall appear on the face of the final plat map. **This condition remains and is revised for clarity.**

**Revised Condition 9.A.13:** In order for the proposed cross-section to be constructed, Apple Cove Lane shall be a 60-foot-wide right-of-way for its entirety. The proposed pedestrian shoulder shall be maintained by the Homeowners Association and a note to that effect shall appear on the face of the final plat map.

*STORMWATER DIVISION*

15. Final detailed drainage construction plans and analyses shall be submitted for review and approval for each phase of development. The fees and submittal processes shall be in accordance with the Kitsap County requirements in effect at the time of submittal. **This condition remains and is revised to reference the appropriate permit process.**

**Revised Condition 9.B.1:** A Site Development Activity Permit shall be submitted for review and approval for each phase of development. The fees and submittal processes shall be in accordance with the Kitsap County requirements in effect at the time of submittal.

16. Runoff quantity control, quality enhancement, erosion control, and site stabilization shall be designed in accordance with either the Washington State Department of Ecology Stormwater Management Manual for the Puget Sound Basin, or an approved technically equivalent manual. **This condition remains and is revised to address related permit applications.**

**Revised Condition 9.B.2:** Runoff quantity control, quality enhancement, erosion control, and site stabilization shall be designed in accordance with either the Washington State Department of Ecology Stormwater Management Manual for the Puget Sound Basin, or an approved technically equivalent manual. Except, the portion of the storm drainage system proposed under Shoreline Substantial Development Permit 19-02164 shall be designed in accordance with the 2016 Kitsap County Stormwater Design Manual.

17. Detention pond volumes and release rates shall conform to the Washington State Department of Fish and Wildlife guidelines, should Hydraulic Project Approval be required. **This condition remains and is unchanged.**
18. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements. Specifically, the roadside conveyance system along the east side of Lindvog Road NE from the project entrance south to

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272nd Street shall be improved, and a culvert shall be installed under NE 272nd Place for the first alternative. In the event the second alternative was pursued, in addition to the previous improvements, the downstream from the central and east basins would need capacity improvements as identified in the downstream drainage analysis. Procurement of any permits or easements necessary to install off-site improvements shall be the responsibility of the project proponent. **This condition remains and is unchanged.**

19. In addition, any runoff from the impervious surface associated with the off-site improvements to Lindvog Road must be included in the final drainage plan. **This condition remains and is unchanged.**
20. A geotechnical engineering analysis will be required for any proposed stormwater detention or retention facility within 200' of 25% or greater slopes. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis. **This condition remains and is revised for clarity.**

**Revised Condition 9.B.6:** A geotechnical engineering analysis shall be required for any proposed stormwater detention or retention facility within 200' of 25% or greater slopes. That analysis shall be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis shall address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facility(ies) shall be designed following the recommendations of the geotechnical analysis.

21. A secondary drainage system will be required to serve the roof and/or yard drainage from homes that cannot be directed to the roadway system. Maintenance of this system will be the responsibility of the homeowners. In the event the secondary system is within any lot boundary an easement must be recorded to ensure the continued use and right of use for those lots that use the system. **This condition remains and is revised for clarity.**

**Revised Condition 9.B.7:** A secondary drainage system shall be required to serve the roof and/or yard drainage from homes that cannot be directed to the roadway system. Maintenance of this system will be the responsibility of the homeowners. In the event the secondary system is within any lot boundary an easement must be recorded to ensure the continued use and right of use for those lots that use the system.

22. Individual on-site infiltration systems may be used instead of a secondary drainage system and will be required on lots that cannot be directed to the secondary system. Before final Plat/P.U.D. approval, the engineer will submit to the Department of Public Works, Stormwater Division, a detailed site and grading plan showing the location and design of those infiltration systems. Maintenance of these systems will be the responsibility homeowner. **This condition remains and is revised for clarity.**

**Revised Condition 9.B.8:** Individual on-site infiltration systems may be used instead of a secondary drainage system and shall be required on lots that cannot be directed to the secondary system. Before final Plat/PUD approval, the engineer shall submit to the Department of Public Works, Stormwater Division, a detailed site and grading plan showing the location and design of those infiltration systems. Maintenance of these systems will be the responsibility homeowner.

23. Should the proponent choose to utilize a retention facility, soils exploration shall be performed at the proposed location of the infiltration facility before final design to determine the infiltration rate and depth to anticipated groundwater table and/or impermeable layer. The storage volume of the facility shall be adjusted to reflect the true infiltration rates with an appropriate safety factor applied. Any retention facility shall remain offline until the drainage area is stabilized, and the water quality treatment facilities are adequately established. During the construction of any retention facility, the project engineer shall provide an inspection to verify that the system is installed into soils that are suitable for infiltration. The engineer shall submit a certified copy of the inspection report to the Stormwater Division. **This condition remains and is revised to reference the appropriate Kitsap County Division.**

**Revised Condition 9.B.9:** Should the proponent choose to utilize a retention facility; soils exploration shall be performed at the proposed location of the infiltration facility before final design to determine the infiltration rate and depth to anticipated groundwater table and/or impermeable layer. The storage volume of the facility shall be adjusted to reflect the true infiltration rates with an appropriate safety factor applied. Any retention facility shall remain offline until the drainage area is stabilized, and the water quality treatment facilities are adequately established. During the construction of any retention facility, the project engineer shall provide an inspection to verify that the system is installed into soils that are suitable for infiltration. The engineer shall submit a certified copy of the inspection report to Development Services and Engineering.

24. Should the proponent propose phasing of the project, a phasing plan shall be submitted to the Stormwater Division of the Department of Public Works for

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review and approval. The phasing plan shall, as a minimum, address the following items:

- a. Timetables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization, of that specific phase.
- b. The extent of drainage improvements to be installed during the various phases. This condition remains and is revised to reference the appropriate Kitsap County Department.

**Revised Condition 9.B.10:** Should the proponent propose phasing of the project, a phasing plan shall be submitted to the Department of Community Development for review and approval. The phasing plan shall, as a minimum, address the following items:

- a. Timetables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization, of that specific phase.
- b. The extent of drainage improvements to be installed during the various phases.

25. Upon completion of the storm drainage facilities, the developer will be required to post a two-year maintenance bond for the facility. The developer will be responsible for providing regular and adequate maintenance during this two-year period and supportive maintenance records. At the end of this time, the County will inspect the system and, when the facility is acceptable and 80% of the homes in that phase have been completed, the County will take over maintenance and operation of the system. Wording to this effect must appear on the plat and in the covenants before final recording of each phase. Areas proposed to be maintained by the County that are not in the right-of-way must be shown as drainage easements with Kitsap County being designated as the grantee. **This condition remains and is revised to address the project revision from public storm system to private storm system** **Revised Condition 9.B.11:** The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before requesting final inspection for the SDAP for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.

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26. Prior to SDAP plan acceptance, the applicant or Project Engineer shall submit the completed Operation and Maintenance Manual for privately maintained and/or non-standard stormwater facilities.

**c. Environmental**

26. **New Condition** This decision incorporates the SEPA conditions and associated findings of fact from the original Plat/PUD application under a SEPA Mitigated Determination of Non-significance, issued on July 20, 1995, and an updated DNS issued on August 03, 2022. The plat is vested to this associated MDNS and rural plat decision. The recommendations from the minor plat amendment approval shall also be guided by this SEPA decision, including density revisions, Open Space tracts, landscaping, off-site parking requirements and vested rural road standards.
27. **New Condition** The project will be conditioned to follow all conditions of approval within the 2014 Shoreline Master Program, per KCC Title 22. The outfall for stormwater overflow has been revised to be an infiltrator system, buried beneath shoreline dune deposits via easements with private landowners. The area will be vegetated with dune grass plantings to reduce erosion concerns, per the no net loss biological report by Soundview Consultants, and others.
28. **New Condition** The project will be conditioned to follow all requirements of the Critical Area Ordinance in effect at time of application. As modified, wetland impacts will be conditioned to follow KCC Title 19.200. Wetland impacts will be minimized by careful installation of the above-ground pipe, which will be founded on pin-piles over the wetland surface. The associated perimeter of the pipe will be re-vegetated (restored) with native plantings, per the mitigation planting plan.
29. **New Condition** The project will be conditioned to follow all recommendations of the associated geotechnical studies for the project, per KCC Title 19.400.

**d. Traffic and Roads**

30. The applicant will construct improvements to Lindvog Road from 50 feet north of the access road through the NE 272 Place intersection. The roadway section will be 2 - 10-foot driving lanes, a 5-foot paved shoulder on the east side of the roadway and a 1-foot gravel shoulder also on the east and west side of the roadway. **This condition remains and is revised for clarity.**

**Revised Condition 9.C.1:** The applicant shall construct improvements to Lindvog Road from 50 feet north of the access road through the NE 272 Place intersection. The roadway section will be two 10-foot driving lanes, a 5-foot paved shoulder on the east side of the roadway and a 1-foot gravel shoulder also on the east and west side of the roadway.

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31. Provide clear title to Kitsap County for the westerly 30 feet of the property east of the west line of NE 1/4, SE 1/4, Section 23, for right-of-way purposes. **This condition remains and is unchanged.**

**e. Fire Safety**

32. Roads shall not exceed 12% grade. This condition remains and is unchanged.

33. The applicant shall provide fire hydrants, fire flow and fire protection systems adequate to meet the requirements of the Kitsap County Fire Prevention Bureau in all respects. **This condition remains and is unchanged.**

**f. Solid Waste**

34. The applicant is encouraged, but not required, to use recycled materials (parking curbs, landscaping, etc.). Contact the Kitsap County Solid Waste Division for more information. This condition remains and is unchanged.

**g. Planning/Zoning – New Conditions**

35. **New Condition** A Forest Practices Application shall be reviewed and approved by Kitsap County DCD prior to the commencement of any conversion logging of the site. Any proposal to thin or log existing forested areas outside of the project area are subject to the requirement of a timber harvest conversion option harvest plan with Kitsap County DCD.

36. **New Condition** Prior to any logging, clearing, or grading of the site, the applicant shall flag all buffer areas including perimeter buffers, roadway buffers, open space perimeters, and wetland buffers and request an inspection from DCD. DCD must approve buffer flagging prior to commencement of any on site work.

37. **New Condition** All buffers and open space shall be considered no-cut natural vegetation areas. Any removal of vegetation within the buffer or open space areas shall require prior approval from DCD. These areas shall be depicted on the face of the plat and marked "Existing Natural Vegetation to Remain".

38. **New Condition** A physical barrier, i.e.: split rail fence, shall be constructed on all lots which abut open space or buffers with the exception of the buffer area along Apple Cove Lane. Fencing need not be sight obscuring but should clearly identify the open space/buffer boundary.

39. **New Condition** The final construction drawings shall include detail plans for pedestrian walkways, paths, and road improvements.

40. **New Condition** A Homeowner's Association and/or Protective Covenants, Conditions and Restrictions shall be established prior to final approval to ensure

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the perpetual maintenance of private roads, storm drainage facilities, recreational facilities and common Open Space. Further, conditions shall be placed within the Protective Covenants, Conditions and Restrictions which prohibit the use of chemical fertilizers and encourage the use of organic fertilizers and the use of native vegetation in the landscaping designs of individual lots. The use of pesticides and herbicides within the plat shall be prohibited unless professionally applied and subject to any regulations in effect at the time of application. Washington State Legislature adopted updated HOA rules through the Washington Common Interest Ownership Act March 6, 2018, effective July 1, 2018. The revised rules clarify and impose requirements operating budgets and maintaining cash reserves. (See 16.04.080.E for possible revisions)

**h. Additional New Conditions**

41. The Washington State Department of Fish and Wildlife (WDFW) may require a Hydraulic Project Approval for the work required at the proposed outfall.
42. A Hydraulic Project Approval (HPA) may be required for the drainage features proposed with associated Shoreline Substantial Development Permit #19-02164. Prior to SDAP approval, the applicant shall submit an approved HPA from WDFW or documentation from WDFW specifying that an HPA is not required.
43. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements for proposed drainage facilities traversing off-site to the shoreline. Procurement of any permits or easements necessary to install off-site improvements shall be the responsibility of the project proponent.
44. The solid waste service provider, Waste Management (360) 674-3166, shall be contacted for information on implementing the service provider's solid waste/recycling storage requirements for the proposed activity. Indicate method of waste disposal on the final plans. Documentation shall be provided by the solid waste/recycling service provider that their requirements for this project have been met.
45. The required Site Development Activity Permit shall demonstrate how the project complies with conditions of approval imposed by the associated Shoreline Substantial Development Permit, currently under review (19-02164).
46. The required Site Development Activity Permit shall include the following: Provide illumination for vertical sag curves not meeting min K value for 25 mph. Provide signing and striping sheet. Evaluate need for advance STOP AHEAD warning sign for vertical crest curve STA 67+86.01 approaching STOP control.
47. Along both sides of NE Apple Tree Point Lane, there are 20-foot no cut zones help

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provide rural character, by providing a visual screen for the traveling public and provide screening for property owners that live along the roadway from the effects of traffic noise and headlights.

**Report prepared by:**

  
\_\_\_\_\_  
Jeff Smith, Senior Planner / Project Lead

10-11-22  
\_\_\_\_\_  
Date

**Report approved by:**

  
\_\_\_\_\_  
Scott Diener, DSE Manager, DCD

10-11-22  
\_\_\_\_\_  
Date

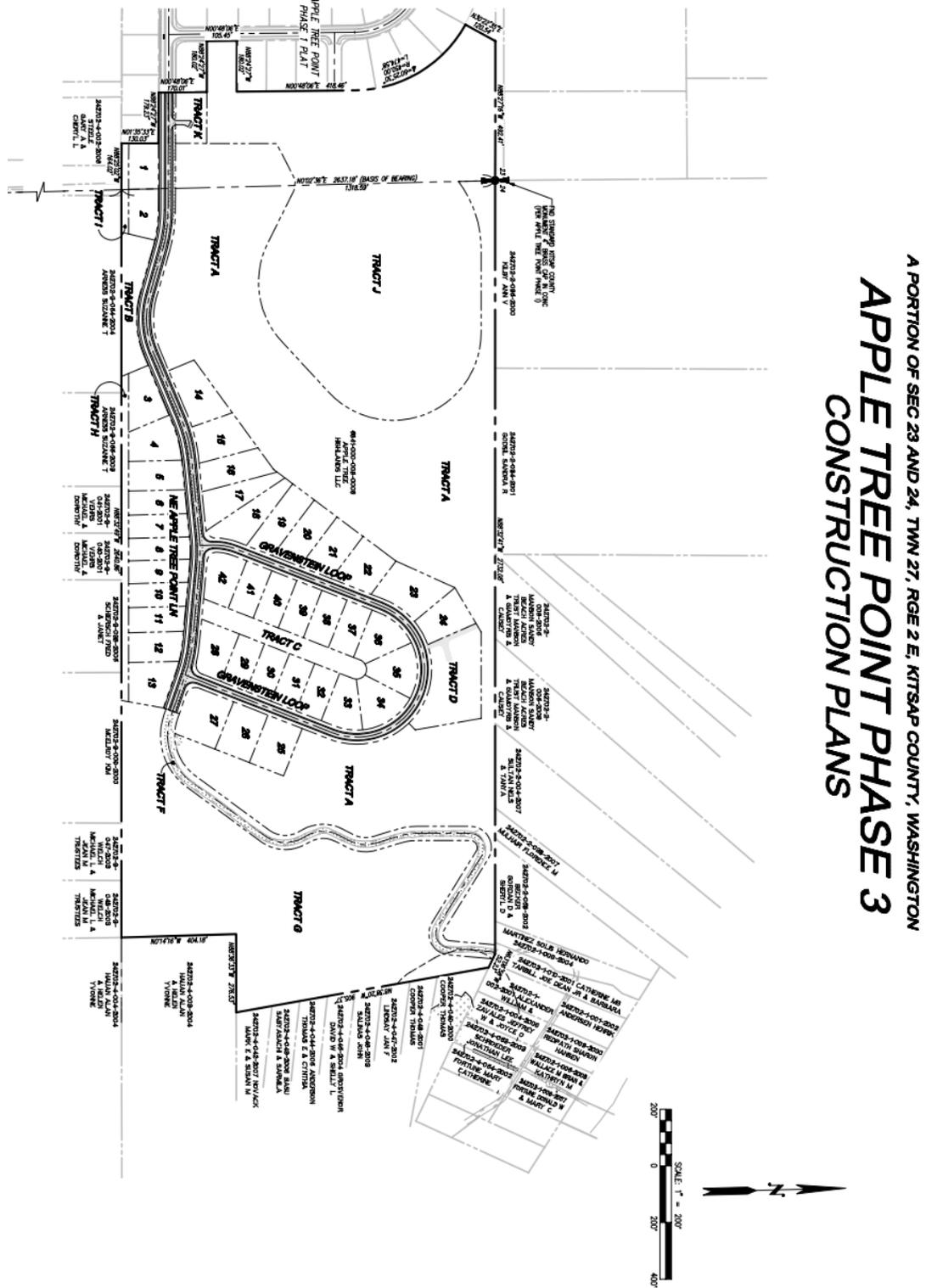
**Attachments:**

- Attachment A – Site plan
- Attachment B – Phasing 3 Plat Map
- Attachment C – Phasing Plan Map
- Attachment D– Open Space Plan
- Attachment E – Historical Zoning
- Attachment F – Existing Zoning Map

**CC:** Applicant: David Fortune, david8fortune@gmail.com  
 Representative: LDC Surveying, Engineering, Planning, faulds@ldccorp.com  
 Interested Parties: Kerry and John Barlow, 1202 NE Apple Tree Point Ln, Kingston WA 98346  
 Yangin Hulten, [oceantanya@gmail.com](mailto:oceantanya@gmail.com); Stephen King, [sking.chat@gmail.com](mailto:sking.chat@gmail.com); Melissa Fleming, [melissa@stillwatersenvironmentalcenter.org](mailto:melissa@stillwatersenvironmentalcenter.org); Ruthanne Gustafson, [rsgus@outlook.com](mailto:rsgus@outlook.com); Dave Bricklin (Bricklin &Newman), [bricklin@bnd-law.com](mailto:bricklin@bnd-law.com); Alex Sidles (Bricklin &Newman), [sidles@bnd-law.com](mailto:sidles@bnd-law.com); Audrey Clungeon (Bricklin &Newman), [clungeon@bnd-law.com](mailto:clungeon@bnd-law.com); Ross Adachi, [radach@kdcla.com](mailto:radach@kdcla.com); Dean Tarbill, [jdeantarbill@gmail.com](mailto:jdeantarbill@gmail.com)  
 Kitsap County Health District, MS-30  
 Kitsap County Public Works Dept., MS-26  
 DCD Staff Planner: Jeff Smith  
 DCD Environmental Planner: Steve Heacock

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Site Plan – Attachment A

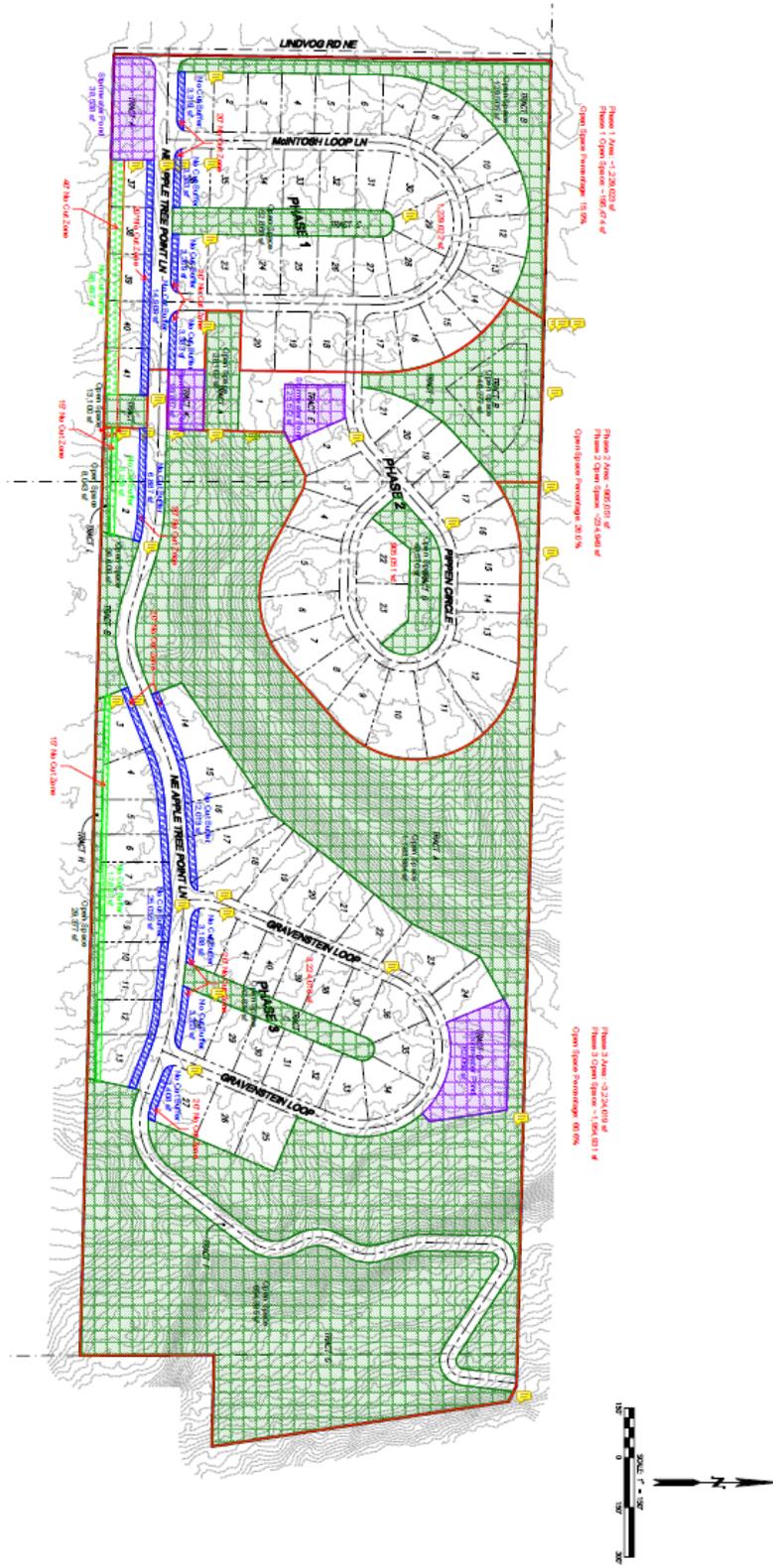




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Phasing Plan Map – Attachment C

Open Space Considerations:  
 Project Open Space - 4,238,000 sq ft  
 Project Open Space - 1,238,000 sq ft  
 Project Open Space - 3,000,000 sq ft  
 Project Open Space - 4,238,000 sq ft  
 Project Open Space - 1,238,000 sq ft  
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 Project Open Space - 3,000,000 sq ft  
 Project Open Space - 4,238,000 sq ft  
 Project Open Space - 1,238,000 sq ft  
 Project Open Space - 3,000,000 sq ft



APPLE TREE POINT, LLC  
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 PREPARED BY: LDC | 11-16-20



Staff Report: 20-5800 Apple Tree Point Highlands

Historical Zoning – Attachment E

