



## Hearing Examiner Staff Report and Recommendation

Report Date: 10/20/2022  
Hearing Date: 10/27/2022

Application Submittal Date: 05/14/2019  
Application Complete Date: 06/20/2019

Project Name: Apple Tree Point Highlands Phase 3 SSDP  
Type of Application: Shoreline Substantial Development Permit (SSDP)  
Permit Number: 19-02164

### VICINITY MAP



### Project Location

12020 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 1st St, Ste 301  
Los Angeles CA, 90012-3819

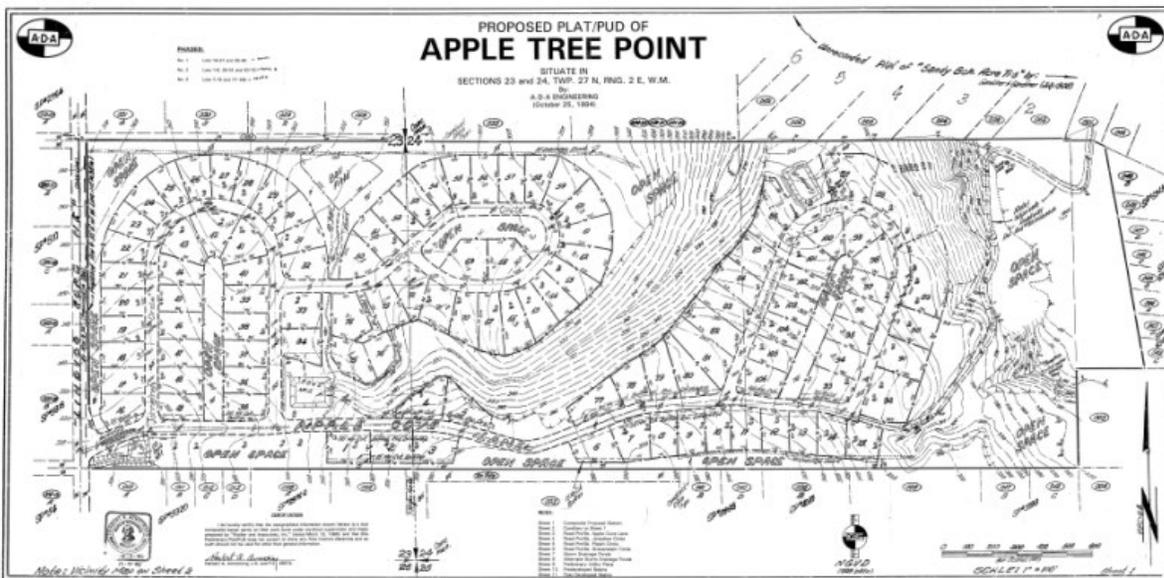
### Recommendation Summary

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

## 1. Background

**Historical vesting:** 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 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.

Plat PUD map



The request for the Phase 3 Shoreline Substantial Development Permit (SSDP) was also reviewed as a component of a Minor Amendment to Preliminary Plat/Performance Based Development (PUD), File 20-05800, and the associated Site Development Activity Permit (SDAP) File 19-00611. The Amendment staff report was issued on October 17, 2022, with a 14-day appeal period. To date, no appeal has been filed. 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. The associated improvements will include paving of the existing gravel surface, along with the addition of a pedestrian walkway and associated utilities to support the development site. The applicant has agreed to design the stormwater facilities to the 2021 Kitsap County Storm Drainage Manual. The Phase 3 revision subject to this SSDP permit application 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 is proposed to be collected in a detention pond within the Apple Tree Point Project and conveyed in an High-Density Polyethylene (HDPE) pipe down the slope and adjacent to NE Apple Tree Point Lane. The pipe will cross beneath the road into an above-ground pipe located across the upper surface of a wetland which will spit flows into the wetland at a mitigated rate and then also transmit to a below-ground infiltration gallery located in a sand dune on property located at 12020 NE Apple Tree Point Lane, Kingston.

## **2. Project Request**

The project entails a proposed stormwater line and associated construction of the outfall line as phase 1 of the Phase 3 development plans. Stormwater from the proposed residential development will be collected in a stormwater detention facility on the residential property and undergo enhanced water quality treatment prior to being conveyed through the stormwater line across and into Puget Sound. The proposed stormwater pipe will be elevated on 2-inch diameter galvanized steel pin piles above the wetland to avoid direct permanent wetland impacts. The remaining length of the line within the 100-year floodplain will be installed underground, which has been addressed in a Federal Emergency Management Agency (FEMA) Floodplain Habitat Assessment Technical Memorandum (EXHIBIT 28) in accordance with KCC 19.500. The runoff will be directed through an energy dissipation system and discharged into the shoreline of Appletree Point via an infiltration gallery located slightly waterward of ordinary high water (OHW) but landward of Mean High Water (MHW). In addition, the project proposes stormwater dispersion to the buffer of Wetland A via a dispersion trench outfall within the wetland buffer. The project was designed to avoid direct permanent wetland impacts entirely. However, due to the location of the wetland between the proposed development and the shoreline, no feasible alternative location exists for installation of the stormwater line. As such, 3,351 square feet of temporary wetland impacts, 2,369 square feet of temporary wetland buffer impacts, and 3,614 square feet of temporary shoreline impacts will be required for placement of the stormwater pipe across Wetland A and the proposed infiltration gallery along the shoreline. All temporary impacts will be fully restored. Additionally, 189 square feet of permanent wetland buffer impacts will be required for the proposed dispersion trench within the Wetland A buffer. These permanent wetland buffer impacts for stormwater infrastructure are allowed per KCC 19.200.225.E. To compensate for

the permanent wetland buffer impacts, 13,630 square feet of wetland buffer enhancement will be provided. Enhanced water quality treatment will also be provided to ensure that contaminants are reduced according to the current stormwater standards prior to runoff release to Puget Sound. The proposed restoration and enhancement plan is anticipated to result in no net loss of shoreline ecological functions and wetland buffer functions onsite. Portions of the stormwater line, including the energy dissipation system, are located within the FEMA 100-year floodplain associated with the Puget Sound. As such, compliance with the NMFS Biological Opinion for implementation of the National Flood Insurance Program (NFIP) in Puget Sound is required, pursuant to KCC 15.13.010. A FEMA Floodplain Habitat Assessment Technical Memorandum (EXHIBIT 28) has been prepared and provides a floodplain habitat assessment and effect determinations for ESA-listed salmonid species and southern resident killer whales in compliance with the criteria outlined in the Regional Guidance for Floodplain Habitat Assessment and Mitigation in the Puget Sound Basin. Overall, the proposed project will have no adverse effect on ESA-listed salmonids or orcas in the vicinity of the study area.

As described above, the proposed project has been designed to minimize shoreline impacts from stormwater runoff. Stormwater will be treated onsite through the use of a dispersion trench and stormwater detention facility. The dispersion trench will ensure that some runoff is retained onsite and that runoff directed toward the shoreline is reduced. Enhanced water quality treatment will be applied to reduce pollutant loads according to the current stormwater standards prior to runoff release to Puget Sound. The proposed stormwater system incorporates an infiltration gallery adjacent to the shoreline; only overflow from the infiltration gallery that is generated by large storm events is anticipated to be directed through the outfall. This flow control measure will be incorporated to match natural conditions and avoid disturbing sediments or substrate to the extent possible. Due to the proposed stormwater treatment system and use of best management practices during construction, water quality and substrate impacts will be minimal. No adverse effects to the WDFW Priority Species will occur.

Wetland buffer enhancement and shoreline restoration actions are proposed to offset permanent wetland buffer impacts, restore all temporary impacts to the wetland, buffer, and shoreline, and provide an overall improvement in buffer functions and no net loss of shoreline functions. Wetland buffer enhancement and shoreline restoration actions will take place concurrently to the proposed project and will improve the existing degraded wetland buffer areas onsite as well as restore all areas temporarily disturbed by the installation of the stormwater conveyance system and associated outfalls. The existing wetland buffer within the study area is considered degraded due to the adjacent residential development and presence of non-native, invasive species. Tree and shrub cover is sparse to non-existent in the portion of the buffer proposed to be impacted, resulting in minimal shade, cover structure, organic matter provision, and bank stability for the wetland. A diverse palette of native species will be planted to improve the wetland buffer functions and ensure no net loss of shoreline ecological function. The wetland areas proposed to be

temporarily disturbed by the installation of the stormwater infrastructure are dominated by native shrubs and herbaceous plants including Pacific willow (*Salix lasiandra*), salmonberry (*Rubus spectabilis*), slough sedge (*Carex obnupta*), and yellow skunk cabbage (*Lysichiton americanus*). The shoreline areas proposed to be temporarily disturbed are dominated by American dunegrass. These species will be replaced with additional native plant species at a minimum 1:1 ratio to improve diversity following installation. Non-native, invasive species that are prolific within the study area, including morning glory (*Convolvulus arvensis*), English ivy (*Hedera helix*), and Himalayan blackberry, will be removed as part of the enhancement and restoration actions. An approved native grass seed mix will also be spread in order to achieve plant densities similar to the existing conditions. A proposed planting plan is provided (EXHIBIT 29). Wetland buffer enhancement, and wetland, buffer, and shoreline restoration plantings are proposed to offset impacts to Wetland A and associated buffer, and shoreline. Native plantings within the wetland, buffer, and shoreline will restore the habitat functions and critical area protection provided by the site and improve hydrology and quality of water leaving the project site. The proposed buffer enhancement and shoreline restoration plan will provide a significant improvement in buffer functions compared to the existing degraded conditions of the areas proposed to be impacted, and ensure no net loss of shoreline ecological functions from the proposed project.

### **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 Nonsignificance, 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 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 is 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 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.

The proposed HDPE water quality conveyance outfall will be directed to property owned by Mr. Fortune, through dedicated easements and tracts, and will be located beneath NE Apple Tree Point Lane, conveyed on the surface to a metered split-flow conveyance where a portion of the treated stormwater will transmit into the wetland. The remaining flows will be transmitted beneath NE Apple Tree Point Land, and subsurface into an elevated dune on the Fortune property.

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

Comprehensive Plan: Rural Residential Zone: Rural 2.5 (Ru-2.5)	Standard	Proposed
Minimum Density	NA	Vested, 1 DU/2.5 acres
Maximum Density	1 DU/2.5 acres	
Minimum Lot Size	2.5 DU/acre	17,100 Sq. Ft.
Maximum Lot Size	NA.	24,757 Sq. Ft
Minimum Lot Width	NA	83 Ft.
Minimum Lot Depth	NA	151 Ft.
Maximum Height	30 feet	2 stories, <30 Ft.
Maximum Impervious Surface Coverage	50%	16%
Maximum Lot Coverage	NA	NA

Applicable footnotes:  
None.

**Table 2 - Setback for Zoning District**

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

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

Surrounding Property	Land Use	Zoning
North	Undeveloped multiple parcels	RU-2.5 [Existing Rural Residential (RR)]
South	Single-family Residence/undeveloped/Forestland.	Residential R-2 Mobile Home (R-2 MH) (Existing RR)
East	Single-family residences waterfront	RU-2.5 [Existing Rural Residential (RR)]
West	Single-family residences	RU-2.5 [Existing Rural Residential (RR)]

**Table 4 - Public Utilities and Services**

	Provider
Water	PUD Water District #1
Power	Puget Sound Energy
Sewer	Individual On-site Septic Systems
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District

## 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. The stormwater outfall subject to this SSDP is located on private property, within dedicated easements and tracts, and transmits to a dune on the private parcel owned by the project applicant, David Fortune, at 12020 NE Apple Tree Point Lane.

## 6. Site Design

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

The related site design for the proposed stormwater treatment infiltration facility was reviewed under current county code, as the outfall conveyance system had not been fully scoped in the original development proposal. As a result, the design uses current Stormwater Code under KCC Title 22 (January 2021), and the current Kitsap County Shoreline Master Program under KCC Title 22. The proposal was reviewed by Kitsap County Public Works, Kitsap DCD Development Engineering staff and Kitsap DCD Planning staff as a component of the review of the associated No Net Loss report and Habitat Management Plan (EXHIBIT 29). For design details, a revised engineering design set has been provided (EXHIBIT 34). Also we reference the revised Stormwater Memo from Development Engineering staff incorporated in the stormwater analysis and provided as conditions of approval.

## 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

As well as the vested Growth Management Policies (GMA), above, the shoreline substantial development permit action is guided by the current Kitsap County Comprehensive Plan, adopted June 30, 2016.

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

*Shorelines*

*Policy SH-1*

*Encourage and support shoreline diversity through planned and coordinated development, which gives preference to water-dependent uses, traditional and historic use patterns, resource values, and environmental protection.*

*Policy SH-3*

*Uses and activities along shorelines and in the waters of Kitsap County should not have a significant adverse effect on water quality.*

*Policy SH-8*

*Land use activities shall be sited and designed to minimize conflicts with and impacts on the shoreline environment.*

*Utility Goals and Policies*

*Policy UT-2*

*Encourage the designation and development of utility corridors and facilities in a manner consistent with the needs and resources of Kitsap County.*

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

*Kitsap County Code (KCC) Title 12 Stormwater*

*Kitsap County Code (KCC) Title 17 Zoning*

*KCC Title 18, Chapter 18.04 State Environmental Policy Act (SEPA)*

*KCC Title 19 Critical Areas Ordinance*

*KCC Title 21, Chapter 21.04 Land Use and Development Procedures*

*KCC Title 22, Chapter 22.600.105 and 22.600.185(B).*

**Shoreline Environment Designation:** Rural Conservancy

**Flood zone Designation:** AE (13-foot elevation under NAVD 88 survey methods)

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
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures
Title 22	Shoreline Master Program

**8. Documents Consulted in the Analysis**

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-40.

Exhibit #	Document	Dated	Date Received / Accepted
1	<b>STAFF REPORT</b>	10/20/2022	
2	Application		06/17/2019
3	Project Narrative	05/14/2019	06/17/2019
4	Site Plan	01/22/2019	06/17/2019
5	SEPA Checklist		06/17/2019
6	Joint Aquatic Resources Permit Application (JARPA)	05/01/2019	06/17/2019
7	Hydraulic Project Approval Submittal Receipt		06/17/2019
8	Submittal Waiver	05/13/2019	06/17/2019
9	Information Request	10/10/2019	
10	Geotechnical Report	12/11/2003	12/31/2019
11	Wetland Report	12/03/2019	12/31/2019
12	Letter – WA Dept. Fish & Wildlife RE: HPA Application	06/26/2019	12/31/2019
13	Information Request Response	12/30/2019	12/31/2019
14	Revised Geotechnical Report – Phases 2 & 3	12/12/2019	12/31/2019
15	Hydrogeologic Report	12/06/2019	12/31/2019
16	Information Request (2 <sup>nd</sup> )	08/26/2020	
17	Email Communications – Army Core of Engineers RE: Permitting	Sep 2019 - Nov 2020	
18	Information Request Response (2 <sup>nd</sup> )	11/20/2020	11/23/2020

19	Project Narrative – Revised	11/11/2020	11/23/2020
20	Army Core of Engineers Special Notice	02/21/2020	11/23/2020
21	Notice of Application	09/02/2021	
22	Information Request (3 <sup>rd</sup> )	09/30/2021	
23	Stormwater Executive Summary	06/05/2021	11/23/2021
24	Outfall Alternatives Memo	10/08/2021	11/23/2021
25	Revised Construction Plans	10/21/2021	11/23/2021
26	Revised Drainage Report	Oct 2021	
27	Information Request Response (3 <sup>rd</sup> )	11/10/2021	11/23/2021
28	FEMA Habitat Technical Memo	11/03/2021	11/23/2021
29	Shoreline Assessment & Habitat Management Plan	11/04/2021	11/23/2021
30	Public Comments	Aug 2019 – Jan 2022	Aug 2019 – Jan 2022
31	SEPA Determination	08/03/2022	
32	Notice of Public Hearing	10/12/2022	
33	Notice of Administrative Decision – Permit# 20-05800 Apple Tree Point Highlands LLC – Phase 3 Minor Amendment to Preliminary Plat	10/17/2022	
34	Stormwater Conditions Memo – Olsen	10/18/2022	
35	Construction Plans (Revision 7)	10/17/2022	10/19/2022
36	Revised Drainage Report	07/28/2022	10/19/2022
37	Stormwater Executive Summary	07/28/2022	10/19/2022
38	Certification of Public Notice	10/20/2022	
39	Staff Presentation		
40	Hearing Sign In		

### 9. Public Outreach and Comments

Pursuant to KCC Title 21, Land Use, and Development Procedures, the Department gave proper public notice for the shoreline substantial development permit. 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 Jenn Stebbins/Ruthanne Gustafson, Dean Tarbill, Kerry and John Barlow, Hulten Yanggon, Stephen King, Melissa Fleming, Suquamish Tribal Biologist, and Ross Adachi.

The following is a summary of issues the Department received from the public from the 2020 request for the shoreline substantial development permit:

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference #30
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
4.	Concerned about the ecological impacts the discharge will have on the beach and the wetlands and marine life.	Barlow, Tarbill, Suquamish Tribe
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. Kitsap County Public Work, Clean Water Kitsap will maintain the stormwater pond for Phase 3, but not the outfall infiltrator. (See Condition of Approval #13).
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.
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.
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**10. Analysis**

**a. Planning/Zoning**

See analysis in shoreline code, below.

**b. Lighting**

Not applicable to this proposal.

**c. Off-Street Parking**

Not applicable to this proposal.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
NA	NA	NA	NA
Total	NA	NA	NA

**d. Signage**

Not applicable to this proposal.

**e. Landscaping**

Not applicable to this proposal.

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s)		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

**f. Frontage Improvements**

Not applicable to this proposal.

**g. Design Districts/Requirements**

Not applicable to this proposal.

**h. Development Engineering/Stormwater**

The referenced Stormwater Memo from Development Engineering staff is incorporated as project conditions. The memo is provided, as follows:

**MEMORANDUM**

**To:** Steve Heacock, Development Services and Engineering

**From:** Cecilia Olsen, Development Services and Engineering

**Subject:** 19-02164 Apple Tree Point, Phase 3  
Shoreline Substantial Development Permit

**Date:** October 18, 2022

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**Summary of Stormwater and Roadway Features**

*Applicant proposes installation of stormwater conveyance pipes and an infiltration gallery/energy dissipater to act as a storm drain outfall from the proposed Phase 3, Plat of Apple Tree Point. The Preliminary Plat is a phased development, vested to the 1997 Kitsap County Stormwater Design Manual; vesting does not apply to this permit.*

**Preliminary Conditions**

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans received May 22, 2019, to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of the land use approval:

**GENERAL**

1. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.

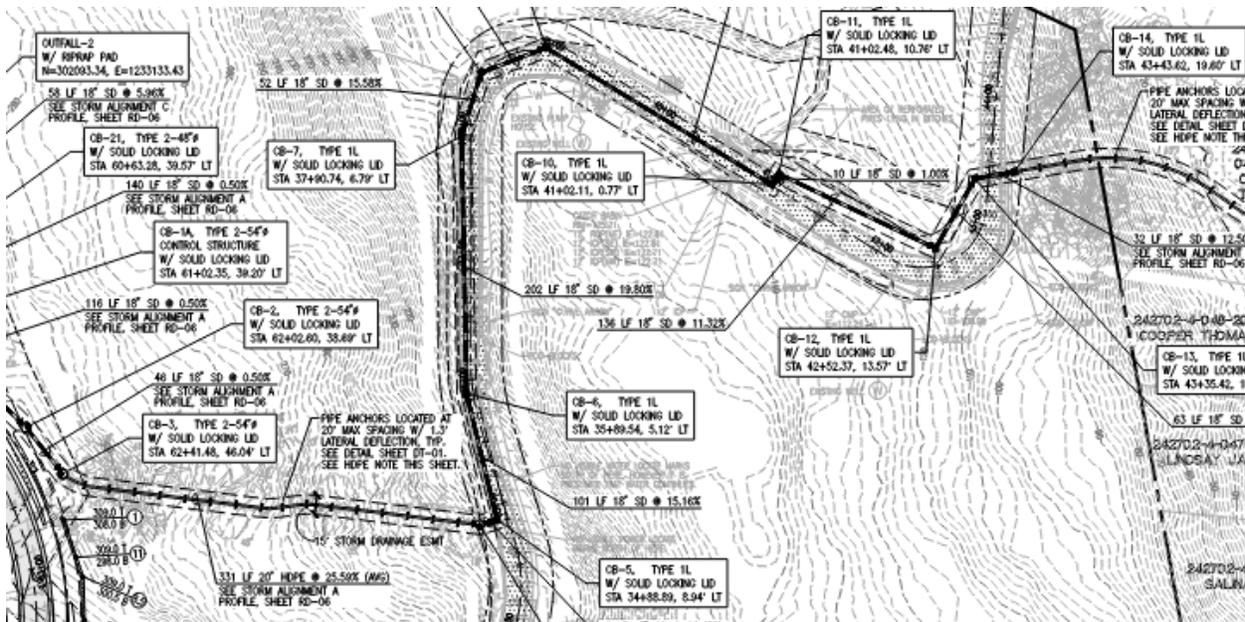
**STORMWATER**

2. The stormwater facilities proposed shall be designed in accordance with Kitsap County Code in effect at the time the Shoreline Substantial Development Activity

Permit was deemed complete, June 17, 2019. The portion of the storm drainage system proposed under Site Development Activity Permit 19-00611 shall be designed in accordance with the 2021 Kitsap County Stormwater Design Manual.

3. A Hydraulic Project Approval (HPA) permit may be required for work associated with the outfall. Prior to SDAP approval, the applicant shall submit an approved HPA from the Washington Department of Fish and Wildlife (WDFW), or documentation from WDFW specifying that a HPA is not required. Information regarding HPA's can be found at <http://www.wdfw.wa.gov/hab/hpapage.htm> or by calling the Office of Regulatory Assistance at (360) 407-7037.
4. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements. Procurement of any permits or easements necessary to install off-site improvements shall be the responsibility of the project proponent.
5. The design of the infiltration facilities shall be accordance with Vol. II, Chapter 5 of the Kitsap County Stormwater Design Manual.
6. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection(s) to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report(s), properly stamped, and sealed to Development Services and Engineering.
7. The owner shall be responsible for maintenance of the storm drainage facilities from CB3 to outfall (see Exhibits Private Storm 1 & 2) 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.
8. 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.
9. All conditions of the associated Site Development Activity Permit #19-00611, currently under review, and any addendums thereto, shall apply to this Shoreline Substantial Development Permit.

Exhibit Private Storm 1, shows private storm system starting at CB3 to CB14



#### i. Environmental

**Policies:** See the previous Policies section for general policy analysis.

**Regulations:** The Kitsap County Shoreline Master Program (SMP) applies to all shorelines of the state and their associated shorelands, including all marine waters and adjacent land within 200 feet of the OHW (KCC 22.200.100). As the southern portion of Wetland A (outside of the study area) is located within 200 feet of Puget Sound, Wetland A is considered an associated wetland and therefore regulated under shoreline development standards under KCC 22.400.115 and KCC 19.200. KCC 19.200.210 adopts the current wetland rating system used by WSDOE. Category II wetlands are difficult, though not impossible, to replace. Category II wetlands provide high levels of functions and score between 20 to 22 points on the Revised Washington State Wetland Rating System for Western Washington (Hruby, 2014). Wetland buffer widths are based on the category of the wetland, wetland habitat functionality, and the surrounding land use intensity as specified per KCC 19.200.220.A and KCC 22.400.115.F. Wetland A is a Category II wetland that scores 8 habitat points and is subject to a standard 150-foot buffer based on proposed low intensity land use per KCC Table 19.200.220(D). A building or impervious surface setback line of 15 feet is required from the edge of the wetland buffer per KCC 19.200.220.E.

#### KCC 22.300.140 Utilities

**Goal:** Plan, locate and design essential utility facilities in shoreline areas where they have the least possible adverse effect on shoreline ecological functions and/or processes and existing or planned water-dependent uses.

**Policy SH-41.**

Plan, locate and design proposed transportation, parking facilities, and utility facilities where routes will avoid a net loss of shoreline ecological functions or will not adversely impact existing or planned water-dependent uses.

*Staff analysis and comments: No existing water dependent uses will be impacted.*

**Policy SH-43**

New or expanded transportation routes and essential utility facilities shall, to the extent feasible:

1. Be located in areas that do not require shoreline stabilization, dredging, extensive cut/fill, and other forms of shoreline alteration.
2. Be limited to local access and public shoreline access routes.
3. Be located in existing rights-of-way and corridors.
4. Not be built within the shoreline jurisdiction when other options are available.

*Staff analysis and comments: The proposal requires no armoring. The roadway is private, will not be modified, and is located in the existing Right Of Way. The outfall pipe will be located on private property, within existing easements. There are no other practicable or reasonable alternatives to locate the stormwater infiltration facility.*

**Policy SH-44**

Transportation and utility projects shall be consistent with the public access policies and plans of this program.

*Staff analysis and comments: Public access in not significantly modified by this proposal.*

**Policy SH-46**

Maintenance of existing transportation corridors and utility facilities shall be carried out in a manner that:

1. Will avoid a net loss of shoreline ecological functions; and
  2. Where feasible and appropriate, improve shoreline ecological functions.
- Unavoidable adverse impacts shall be mitigated.

*Staff analysis and comments: There will be a net gain of habitat upon completion of the project as the adjacent residence will require replanting of the shoreline. A trail for maintenance of the system is unavoidable. Mitigation and restoration of adjacent beach, surface pipe, and above ground wetland outfall area is proposed.*

**KCC 22.300.145 Shorelines of Statewide Significance**

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Shorelines, thus designated, are important to the entire state. The project work area is located outside of the designation and therefore requires no further analysis under this classification.

#### **KCC 22.400 General Regulations**

The summary below provides description of project consistency with the general regulations provided in KCC 22.400. The applicable general regulations include mitigation; vegetation conservation buffers; water quality and quantity; historic, archaeological, cultural, scientific, and educational resources; view blockage; bulk and dimension standards; public access, and flood hazard reduction measures.

Discussion of mitigation and vegetation conservation buffers are presented as part of the No Net Loss Analysis provided in detail below and further analyzed in-total in the No Net Loss Report and Mitigation Plan, (EXHIBIT 29).

*Staff has reviewed the summary analysis and find the proposal is consistent with the required provisions in KCC 22.400.125 Water Quality and Quantity; KCC 22.400.130 Historic, Archeological, Cultural, Scientific and Educational Resources; KCC 22.400.135 View Blockage; KCC 400.140 Bulk Dimension Standards; KCC 22.400.145 Public Access; KCC 22.400.150 Flood Hazard Reductions; KCC 22.400.(110,115, and 120) No Net Loss Analysis, which includes Mitigation Sequencing, Avoidance, Minimization, Restoration, Compensatory Mitigation and Assessment of No Net Loss.*

KCC 22.400.110.A is addressed, as follows:

Uses and modifications within the shoreline jurisdiction shall achieve no net loss of shoreline ecological functions and comply with the mitigation sequencing, as outlined in KCC 22.400.110.A, and demonstrated below:

a. Avoid the impact altogether by not taking a certain action or parts of an action; *The proposed project has undergone various site designs to carefully avoid impacts to the shoreline of Appletree Cove Point. However, complete avoidance of the identified shoreline, wetland, and associated buffer is not possible due to the encumbrance within the study area and location between the proposed development and the shoreline. As such, 3,351 square feet of temporary wetland impacts, 2,369 square feet of temporary wetland buffer impacts, and 3,614 square feet of temporary shoreline impacts will be required for placement of the stormwater pipe across Wetland A and the proposed infiltration gallery along the shoreline. 189 square feet of permanent wetland buffer impacts will be required for the proposed dispersion trench within the wetland buffer, as allowed per KCC 19.200.225.E.*

b. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid

or reduce impacts; *The project has undergone variations in site design in order to accommodate the required stormwater infrastructure for the future residential development and minimize impacts to the identified critical areas. To minimize impacts, the project proposes to elevate the stormwater line 1 to 4 feet above Wetland A by securing the conveyance pipe on a steel beam elevated above a pair of 2-inch diameter galvanized steel pin piles at 20-foot intervals. The installation of the stormwater outfall to the shoreline will also be constructed during low tide and in-water work will be avoided as such. The proposed stormwater pipe will be installed under the existing gravel and paved roadbed; as such, no increase of impervious surface is proposed to minimize impacts to the shoreline buffer. In addition, the conveyance system has been carefully designed to minimize impacts by retaining all trees within the shoreline buffer and reducing the length of the conveyance pipe to the greatest extent possible. The project cannot be limited in scope or degree of magnitude of impacts and reasonably accomplish the project. All appropriate best management practices (BMPs) and TESC measures will be implemented throughout the duration of the project to further minimize impacts to the water body. Enhanced water quality treatment and an infiltration gallery will also be provided to ensure that contaminants are reduced according to the current stormwater standards prior to runoff release to Puget Sound.*

c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment; *The onsite restoration and enhancement actions are intended to compensate for minor disturbances within the wetland and associated buffer, and the shoreline. In order to offset impacts in accordance with KCC 22.400.110.A.2, approximately 13,630 square feet of the wetland buffer will be enhanced by removing non-native invasive species and planting disturbed areas with native trees, shrubs, and groundcovers exceeding a 1:1 ratio. These enhancement actions will provide increased screening and habitat within the buffer by providing increased structural complexity and diversity onsite, and will result in a net lift in ecological functions. The proposed enhancement actions will occur concurrently with construction of the proposed project.*

d. Reduce or eliminate the impact over time by preservation and maintenance operations; *For the proposed enhancement actions, impacts over time will be preserved through monitoring and maintenance operations. The monitoring plan proposes the enhancement actions will be maintained for a minimum period of 5 years to ensure success of the project. Additional potential impacts to the critical areas will also be reduced over time by the installation of permanent sensitive area signage and fencing between the buffer and development in order to discourage trespassing and reduce habitat disturbance. See Shoreline Assessment and Habitat Management Plan, (EXHIBIT 29) for further monitoring and maintenance details.*

e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and All temporary impacts associated with construction of the proposed stormwater pipe

will be fully restored. *Mitigation for the permanent wetland buffer impacts will be achieved through buffer enhancement actions exceeding a 1:1 ratio. The proposed restoration and enhancement plan will result in an overall ecological lift over existing conditions.*

f. Monitor the impact and the mitigation projects, and take appropriate corrective measures. *A maintenance and monitoring plan will be implemented to meet specific performance standards and to ensure the success of mitigation actions for five years.*

### **KCC Title 600 Use Review**

#### **22.600.185 (B) Utilities**

As detailed in KCC 22.600.105, utilities are permitted uses in both the Rural Conservancy and Urban Conservancy environments. KCC 22.600.185(8) indicates all applications for utility facilities shall include, at a minimum, the following items, which include responses associated with the proposed project:

1. Reason why facility must be located in the shoreline jurisdiction.  
*The proposed project is a stormwater water quality outfall system to infiltrate treated stormwater from the Phase 3 of Apple Tree Point Highlands to Puget Sound, via infiltration into shoreline dunes. Alternate outfall location have been reviewed by agency staff in the field, and there is no other alternative.*
2. Alternative locations considered and reasons for their rejection.  
*The proposed project is needed to provide for a stormwater overflow outlet of treated water from the stormwater detention facility. Due to landslide hazards and balance with septage infiltration, discharging the treated stormwater has been determined to be infeasible for the vested Phase 3 plat by the project geotechnical engineer (EXHIBIT 14). Alternatives for stream outfall location was also reviewed by agency and County staff and was determined to be infeasible due to stream bed constraints, downstream outlet constraints and nearby residences. Maintenance would also be problematic with other alternatives (EXHIBIT 24).*
3. Location of other facilities near the proposed project and if the location is to include other types of facilities.  
*N/A. The proposed project does not include any additional facilities.*
4. Proposed method of construction and plans to control erosion and turbidity during construction.  
*Installation of the drain pipes will outlet stormwater into the dune substrate located above mean high water and the ordinary high water line. Turbidity is not anticipated as the facility is entirely beneath the ground surface, and the conveyance is for treated stormwater. Once the work is completed, restoration*

*and replanting of the outfall disturbed areas will be restored.*

5. Plans for restoration of areas disturbed during construction.  
*The project has been designed to avoid work below the MHHWL of the marine shoreline. The proposed buffer enhancement and wetland, buffer, and shoreline restoration actions include, but may not be limited to, the following recommendations:*
  - a. *Enhance the onsite Wetland A buffer areas as shown in Appendix D.*
  - b. *Remove any trash and other debris within the shoreline, wetland, or wetland buffer areas.*
  - c. *Pre-treat invasive plants with a Washington Department of Agriculture approved herbicide or hand remove invasive plants; any pre-treatment of the invasive plants should occur a minimum of two weeks prior to removal.*
  - d. *Apply topsoil and/or compost as needed to provide a suitable substrate in the restoration and enhancement areas.*
  - e. *Replant all restoration and enhancement areas with a suite of native plants listed in Appendix D, or substitutes approved by the responsible Project Scientist, to help retain soils, filter stormwater, and increase biodiversity.*
  - f. *Replant American dunegrass along the shoreline around the existing impervious surfaces.*
  - g. *An approved native seed mix may be used to seed the restoration and enhancement areas after planting.*
  - h. *Maintain and control invasive plants annually, at a minimum, or more frequently if necessary. Maintenance to reduce the growth and spread of invasive plants is not restricted to chemical applications but may include hand removal, if warranted.*
  - i. *Provide dry-season irrigation as necessary to ensure native plant survival.*
  - j. *Direct exterior lights away from the critical areas wherever possible.*
  - k. *Place all activities that generate excessive noise (e.g., generators and air conditioning equipment) away from the onsite critical areas where feasible.*
6. Possibility of locating proposed facility within existing right-of-way.  
*Much of the project will be located in a private roadway easement, on private property, or in provided easement areas.*
7. Geotechnical report required when proposed in a geologically hazardous area.  
*A Geotechnical report (EXHIBIT 14) has been prepared for the project is included with the application package. The report meets all County guidelines, per KCC 19.400.415 Designation of Geologically Hazardous Areas, and KCC 19.700, Special Reports.*

**j. Access, Traffic and Roads**

Temporary construction along and beneath the roadway may create ingress/egress delays. Construction timing must be coordinated with the Apple Tree Point community.

**k. Fire Safety**

Not applicable to this proposal.

**l. Solid Waste**

Not applicable to this proposal.

**m. Water/Sewer**

Not applicable to this proposal.

**n. Kitsap Public Health District**

Not applicable to this proposal.

**11. Review Authority**

The Hearing Examiner has review authority for this Shoreline Substantial Development Permit application under KCC Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, remand, or deny a Shoreline Substantial Development Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make a proper decision. The powers of the Hearing Examiner are at KCC Chapter 2.10. Once the Hearing Examiner Decision is made, the proposal is forwarded to the Washington Department of Ecology pursuant to WAC 173-27-020.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 22 and complies with or will comply with all of 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.
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
4. 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.

### 13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 22.500.100.B and 21.04, the Department of Community Development recommends that the Shoreline Substantial Development Permit request for Apple Tree Point Highlands Phase 3 Stormwater Infiltration Project be **approved**, subject to the following **22** conditions:

#### a. Planning/Zoning

1. This decision incorporates the SEPA conditions and associated findings of fact from the original Plat/PUD application under a SEPA Mitigated Determination of Nonsignificance, 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. Outfall water quality shall be tested annually to assure that shellfish are not contaminated by facility discharges. A baseline test will be performed and shared with DCD at time of SDAP approval. Upon acceptable test results, the timeframe may be expanded to bi-annual or a greater period of time.
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).

**b. Development Engineering**

Per the Stormwater Development Memo (EXHIBIT 34), the stormwater system and associated infiltration outfall is considered a major project and will require a Site Development Activity Permit (20-00611).

GENERAL

8. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.

STORMWATER

9. The stormwater facilities proposed shall be designed in accordance with Kitsap County Code in effect at the time the Shoreline Substantial Development Activity Permit was deemed complete, June 17, 2019. The portion of the storm drainage system proposed under Site Development Activity Permit 19-00611 shall be designed in accordance with the 2021 Kitsap County Stormwater Design Manual.
10. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements. Procurement of any permits or easements necessary to install off-site improvements shall be the responsibility of the project proponent.
11. The design of the infiltration facilities shall be accordance with Vol. II, Chapter 5 of the Kitsap County Stormwater Design Manual.
12. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection(s) to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report(s), properly stamped, and sealed to Development Services and Engineering.
13. The owner shall be responsible for maintenance of the storm drainage facilities from CB3 to outfall (see Exhibits Private Storm 1 & 2) 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.

14. 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.
15. All conditions of the associated Site Development Activity Permit #19-00611, currently under review, and any addendums thereto, shall apply to this Shoreline Substantial Development Permit.

**c. Environmental**

16. If any work is to be done below the ordinary high water mark, a Hydraulic Project Approval permit is required from the Washington Department of Fish and Wildlife.
17. Project work shall be subject to the conditions of the Washington Department of Fish and Wildlife Hydraulics Project Approval (HPA), should an HPA be determined to be necessary.
18. Shoreline construction activities shall be conducted in a manner such that private properties adjacent to the project area are not impacted.
19. All recommendations of the Geotechnical Report and Final Alternatives Analysis, by Soundview Consulting must be followed.
20. Upon final permit issuance, all construction for the project must commence within two years and be complete within five years. A one-time one-year extension is available but only if requested on or before ninety days of original permit expiration. No exceptions are allowed unless provided for by law.
21. Mitigation shall conform to the Shoreline Assessment, Habitat Management Plan and Mitigation Plan, prepared by Soundview Consultants, and dated November 2021, shall guide all construction activities and required mitigation work.

**d. Traffic and Roads**

22. All traffic control devices on public and private roads shall comply with the Manual on Uniform Traffic Control Devices as amended by the Washington Administrative Code. This is in accordance with 23 Code of Federal Regulations (CFR), Part 655.

**e. Fire Safety**

None.

**a. Solid Waste**

None.

**b. Kitsap Public Health District**

None.

**Report prepared by:**

  
\_\_\_\_\_  
Steve Heacock, Staff Planner / Project Lead

10/19/2022  
Date

**Report approved by:**

  
\_\_\_\_\_  
Scott Diener, Manager

10/19/2022  
Date

**Attachments:**

Attachment A, Site Plan  
Attachment B, Mitigation Plan

CC: Applicant: David Fortune  
Applicant's Representative: Ian Faulds, LDC Corp.  
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Washington Department of Ecology, Wetlands: Neil Molstad  
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DSE  
Fire Marshal  
Kitsap County Health District  
Interested parties of record

