



Rafe Wysham
Director

KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

To enable the development of quality, affordable, structurally safe and environmentally sound communities.

Notice of Hearing Examiner Decision

6/16/2025

To: Interested Parties and Parties of Record

RE: Project Name: Colbie Court - Preliminary Plat & COLBIE COURT - Critical Area Variance
 Applicant: AGILE SB PO1 LLC
 17012 150TH AVE E
 ORTING, WA 98360
 Application: PPLAT & CVAR
 Permit Number: 23-00730 (PPLAT) & 23-01780 (CVAR)

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 23-00730: Colbie Court - Preliminary Plat (PPLAT) and Permit 23-01780 COLBIE COURT - Critical Area Variance (CVAR)**, subject to the conditions outlined in this Notice and included Decision.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

<https://www.kitsap.gov/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC:

Applicant: AGILE SB PO1 LLC, 17012 150TH AVE E ORTING, WA 98360;
 AHBL, sgreene@ahbl.com

Owner: AGILE SB PO1 LLC, 17012 150TH AVE E ORTING, WA 98360

Authorized Agent: Dylan Huber, dylan@spp-mfg.com; Sheri Greene, sgreene@ahbl.com; Jessica Bruce, jbruce@ahbl.com; Jorge Duque, jorge@spp-mfg.com

Biologist: Mark Heckert, mheckert@Q.com

Engineer: Matthew Weber, mweber@ahbl.com

Other: Don Huber, Don@SPP-MFG.com

Interested Parties: Rebecca Stone, bollman.rebecca@gmail.com; Russell Borman, PO BOX 54 PORT ORCHARD, WA 98366; Nicholas Bond – City of Port Orchard, nbond@portorchardwa.gov; Andy Larson – WSDOT, andrew.larson@wsdot.wa.gov; Neil Molstad – Department of Ecology, nemo461@ECY.WA.GOV; Sarah Albright-Garland – USACE, Sarah.L.Albright@usace.army.mil; Jennifer Eberly – WDFW, jennifer.eberly@dfw.gov; Rod Malcom – Suquamish Tribe, rmalcom@suquamish.nsn.us

Health District

Public Works

Parks

Navy

DSE

Kitsap Transit

South Kitsap Fire District

South Kitsap School District

Puget Sound Energy

City of Port Orchard Planning Director

Water Purveyor - PUBLIC UTILITY DIST NO 1

Sewer Purveyor - PUBLIC UTILITY DIST NO 1

Point No Point Treaty Council

Suquamish Tribe

Skokomish Tribe

Port Gamble S'Klallam Tribe

Squaxin Island Tribe

Puyallup Tribe

WA Dept of Fish & Wildlife

WA Dept of Transportation/Aviation

WA State Dept of Ecology-SEPA

WA State Dept of Ecology-Wetland Review

WA State Dept of Transportation

Department of Archaeological Historic Preservation

WA Department of Natural Resources

Prosecutor's Office

Assessor's Office

DCD

Kitsap Sun

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3 **BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY**

4 Phil Olbrechts, Hearing Examiner

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RE: Colbie Court Preliminary Plat and Critical Areas Variance File No. 23-00730 (P-PLAT) and 23-01780 (CVAR)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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11 **INTRODUCTION**

12 Agile SB PO1 LLC has applied for preliminary plat approval of a 50-lot division of
13 9.77 acres located at 5230 Bethel Rd. S.E.. In addition, Agile requests approval of a
14 Critical Area Variance to reduce the buffer of a Class 3 wetland to accommodate a
15 30,733 square foot encroachment for an access road to the proposed lots. The
16 applications approved subject to conditions.

17 The only issue of concern raised at the hearing was application of perimeter
18 landscaping standards, specifically KCC 17.500.27. KCC 17.500.027A1 roadside and
19 setback area screening is found to apply to the east property lines. KCC 17.500.027A2
20 partial separation screening applies to the south property line. KCC 17.500.027B2
21 solid screening applies to the northern property line along the commercially developed
22 adjoining lot. No screening is required for the western property line or on the north
23 property line where it adjoins an undeveloped lot.

24 As established by RCW 58.17.035, the subject plat application vested at the time of a
25 complete application. It is undisputed that at the time of vesting the property to the
north and west was zoned commercial and that to the south and east urban low density
residential (UL), with road frontage along the east side.

26 As correctly noted by staff, KCC 17.500.027A1 requires roadside and setback area
27 buffers along streets. The east property line is subject to the setback area buffer as
28 designated in KCC 17.500.027A1 because it is along a street. The County asserts that
29 KCC 17.500.027A2 requires a partial separation buffer along the south property line
because the UL is a compatible zone. The Applicant notes that the separation buffer
specified in KCC 17.500.027A2 is only expressly required “*along the perimeters of*

1 *multifamily, residential, commercial, industrial and public facility development which*
2 *abut like uses...”*

3 The Applicant is correct that the single-family housing proposed by the Applicant is
4 not expressly identified as subject to the KCC 17.500.027A2 separation buffer.
5 However, the community development director has discretion to require more than that
6 expressly identified in KCC 17.500.027A2. The introductory section of KCC
7 17.500.027A provides that the community developer director may require different
8 types of buffers between compatible uses depending upon the proposed and adjoining
9 uses and that the buffers “shall include” buffers such as that specified in KCC
10 17.500.027A and B. The “shall include” language identifies that the KCC 17.500.027A
11 and B buffers are nonexclusive. The broad authority granted to require buffers between
12 any compatible uses clearly authorizes the director to impose buffers along the UL
13 adjoining zoning.

14 For this project a partial separation screen along the south property line is appropriate
15 because the adjoining property to the south is already developed with residential use at
16 a lower density than the proposal. The Ex. 13 site plan shows a significant difference
17 in density between the two adjoining areas. The screening required by KCC
18 17.500.027A2 is justified to mitigate the impacts of the higher proposed density.

19 Similar consideration arise along the west and north property lines but with different
20 results. As previously noted, the adjoining area along those sides is commercial. This
21 difference in zoning implicates KCC 17.500.027B, which governs perimeter
22 landscaping amongst incompatible uses. KCC 17.500.027B2, which governs solid
23 screen buffering buffering, has the same limiting language as KCC 17.500.027A2, i.e.
24 the buffering is only required “*along the perimeters of multifamily, residential,*
25 *commercial, industrial and public facility development which abut like uses...”*

As with the KCC 17.500.027A2 buffering, the director has wide latitude to set the
landscape buffering along the north property line and is not limited to the buffering
identified in KCC 17.500.027B2. Given that one of the lots adjoining land along the
north side on its western end is developed commercially or industrially as shown in Ex.
48, p.1, KCC 17.500.027B2 buffering is found wholly appropriate to mitigate against
the incompatibilities of the different land uses for that adjoining parcel.

The property to the west is zoned commercial but according to Ex. 54 is only developed
with a single family home. The Ex. 48, p.1 aerial shows that the area is highly wooded.
The trees currently provide plenty of screening. Since the adjoining property is zoned
commercial, it still has significant future development potential. The compatibility
issues posed by that future development combined with the lack of need for screening
currently renders it more appropriate to make the adjoining property install any

1 necessary screening¹ if and when that property is further developed. No screening is
2 required along the western property line.

3 No screening is found necessary for the undeveloped lot on the eastern end of the
4 northern property line as well. The adjoining lot in that area is currently undeveloped
5 as indicated in Ex. 54 and shown on Ex. 48, p. 1. No screening is necessary to protect
6 either of the adjoining properties at this time. The adjoining lot can install whatever
7 screening is found necessary if and when permits are applied to develop it.

8 **ORAL TESTIMONY**

9 A computer-generated transcript of the hearing has been prepared to provide an
10 overview of the hearing testimony. The transcript is provided for informational purposes
11 only as Ex. 55. The transcript is not intended to provide a precisely accurate rendition
12 of testimony but generally identifies the subjects addressed during the hearing. The
13 transcript is entered as an exhibit solely to accommodate the County's land use
14 permitting record retention system. The transcript should not be construed as evidence
15 and is only provided as a convenience for persons wishing to be generally informed
16 about hearing testimony. For a precise rendition of hearing testimony, a recording of the
17 hearing is available at Kitsap County.

18 **EXHIBITS**

19 Exhibits 1-52 identified on the Index to the Record were admitted during the May 22,
20 2025 hearing. A May 27, 2025 memo from AHBL was admitted post-hearing as
21 Exhibit 53 and a May 29, 2025 memo from DCD was admitted post-hearing as Exhibit
22 54.

23 **FINDINGS OF FACT**

24 **Procedural:**

- 25 1. Applicant. Agile SB PO1 LLC 17012 150th Ave. E., Orting, WA 98360
2. Hearing. A hybrid hearing (participation in person at the Kitsap County
Commissioners' Chambers at 619 Division Street, Port Orchard, WA or virtually via
Zoom) was held on the application on May 22, 2025, at 9:00 AM. The examiner left
the record open until May 28, 2025 for staff and applicant to work out some
discrepancies in required landscape buffers and an opportunity for public response.

¹ It is recognized that the property adjoining the project site to the west is located in the City of Port Orchard and thus likely subject to different screening requirements. Whatever screening is required under Port Orchard standards will have to be deemed adequate.

Substantive:

3. Site Proposal/Description. Agile SB PO1 LLC has applied for preliminary plat approval of a 50-lot division of 9.77 acres located at 5230 Bethel Rd. S.E.. In addition, Agile requests approval of a Critical Area Variance to reduce the buffer of a Class 3 wetland from 150 feet to 110 feet to accommodate the project's access road.

4. Characteristics of the Area. The project site fronts Bethell Rd SE to the east. Single family development is located to the south and west. Commercial and/or industrial development adjoins the project site along the western portion of the north property line. A vacant lot is located along the eastern portion of the northern property line. At the time of project vesting the adjoining properties to the west and north were zoned commercial. The properties to the south and east were zoned Urban Low Residential.

5. Adverse Impacts. There are no significant adverse environmental impacts associated with the proposed preliminary plat. A Determination of Nonsignificance (DNS) was issued on March 7, 2025. Pertinent impacts are addressed as follows:

A. Critical Areas. The project site is encumbered with a 0.97-acre wetland classified as a Class 3 wetland subject to a 110- foot buffer. The wetland is located along the eastern end of the project site.

The critical area variance subject to this decision seeks to authorize a wetland buffer reduction to accommodate a 30,733 square foot encroachment for the construction of an access road to the proposed lots. The buffer encroachment appears to be very close to the wetland itself. The mitigation for this buffer encroachment has involved applicant's project representative and biologist, the Department of Ecology (ECY), the Department of Fish and Wildlife (WDFW), and the Corp of Engineers (USACE). All those parties did a site visit on November 30, 2023.

As a result of that collaboration identified above, the Applicant submitted a revised mitigation plan, Ex. 42, to include the creation of a 10,670-square foot wetland adjacent to the southwest corner of the existing wetland. The created wetland will be planted with native trees and shrubs, and supportive hydrology will continue to be provided by the existing wetland. In addition, the existing wetland and buffer area to be enhanced will be cleared of invasive plant species and revegetated with native trees and shrubs. With this mitigation the Applicant's critical areas report, prepared by a wetland biologist, was able to conclude that the proposal would result in no net loss of ecological function.

A stream enters the site through a 36" culvert from Bethel Rd. The culvert extends approx. 120 ft. west from Bethel rd., under the interior road, to outlet on the north boundary of the on-site wetland. The stream was found to be unregulated in the Applicant's critical areas report, Ex. 11, p. 10. WDFW

believed the stream to be potentially connected to a regulated stream and thus subject to the County's critical areas ordinance. However, after the November 30, 2023 site visit and consultation with the County and Applicant WDFW had no further concern. Tr. 5.

B. Compatibility. The proposal is compatible with surrounding uses. All of the surrounding development except for what appears to be some commercial or industrial development along western side of the northern property line is zoned or developed for single-family use. The landscaping identified in the overview section of this decision provides for adequate mitigation of differences in density and use.

6. Adequacy of Infrastructure/Public Services. The project will be served by adequate and appropriate public infrastructure and utility services. Preliminary infrastructure design has been reviewed by the County Public Works Department and the preliminary design concept has been determined to be supportable. Final design for streets, sidewalks, storm drainage facilities and sanitary sewer will be required to meet County Design Standards and implemented prior to final plat approval. Infrastructure needs are more specifically addressed as follows:

A. Water and Sewer Service. Adequate provisions are made for water and sewer infrastructure and service. West Sound Utility District will serve the project site for water and sewer. Binding letters shall be required with the Site Development Activity Permit.

B. Stormwater Drainage. The proposal will be served by adequate and appropriate stormwater facilities and drainage ways in conformance with the County's stormwater regulations.

Kitsap County has adopted the Department of Ecology Stormwater Management Manual for Western Washington (SWMMWW). See KCC 12.04 – 12.32. The Manual effectively mitigates against stormwater impacts by requiring that the project limit off-project site flows to those generated from the project site in a vacant, forested condition. Stringent water quality standards are also imposed, requiring that the water quality be treated with all known, available and reasonable methods of prevention, control and treatment. See RCW 90.52.040 and RCW 90.48.010.

The Applicant has prepared a preliminary drainage report to demonstrate compliance with the County's stormwater regulations. Ex. 8. Flow control is proposed using infiltration trenches. Stormwater from the roadways will be conveyed to stormwater treatment filters before infiltration. Wetland hydrology will be maintained and continue to receive both offsite and onsite runoff.

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2 C. Parks/Open Space. The proposal provides for adequate and appropriate
open space.

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4 The Applicant is required to include 19,500 square feet of recreation facilities (50
units x 390 square feet). The applicant is proposing a 30,000 square foot active
5 recreation area near the front property line (3,200 square feet) and also proposing a
6 passive recreation area with hiking trails through the existing preserved vegetation
on the east slope of the project site (6,450 square feet recreation area with trails) for
7 a total of 9,650 square feet. The common open space tract of preserved native
vegetation is 65,430 square feet in size.

8 KCC Chapter 4.110 provides for the imposition of impact fees on new development
9 for Parks and Opens Space. These fees are designed to mitigate for the additional
demand placed by the project on the County's park system. As conditioned, the
10 project will pay the parks impact fees at the time of building permit review.

11 D. Transportation. The proposal provides for adequate streets, roads, sidewalks in
and adjacent to the subject property. Access to the development will be via a new
12 internal road intersecting Bethel Rd SE. Sidewalks will be provided along one side
of the internal access road and will be installed along the street frontage to Bethel
13 Rd SE along with a bike lane.

14 A Traffic Impact Assessment, dated March 6, 2024, Ex. 34, was submitted with
15 this application to establish consistency with the County's level of service (LOS)
standards. The development is anticipated to generate 553 new average weekday
16 daily trips (AWDT) with 41 AM peak-hour trips and 54 PM peak-hour trips. The
report found no degradation in intersection LOS resulting from the proposal as
17 tabulated in Table 6 of the report.

18 Impacts to the County's transportation system as a whole are addressed by the
19 County's traffic impact fees as provided for in KCC Chapter 4.110. These fees are
due during building permit review and are designed to compensate for
20 proportionate share impacts to the County's road network.

21 D. Schools. The proposal makes adequate and appropriate provision for schools.

22 South Kitsap School District was notified regarding the approval of the pending
23 preliminary plat. When the District responds, their comments will be included with
the review of the Site Development Activity Permit. A condition of approval
24 further requires that the Applicant consult with the school district to ensure that
there are safe walking conditions to and from schools or school buses as required
25 by RCW 58.17.110.

KCC Chapter 4.110 provides for the requirement for new developments to offset the impact to public schools through the collection of impacts payable to the district. All required fees are required to be paid as stipulated in KCC Chapter 4.110.

7. Special Circumstances. The project site is encumbered by special circumstances because a wetland and its associated buffer completely blocks access to the developable portion of the site. The wetland is located at the eastern end of the project site along its only street frontage. The wetland and its buffer stretch across the entirety of the width of the lot. The only way to access the western, developable portion of the lot is to install an access road through the wetland buffer.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. KCC 21.04.100 provides that preliminary plat applications and critical area variances are Type III applications subject to hearing examiner approval. KCC 21.04.110 identifies that the hearing examiner shall issue a final land use decision for Kitsap County after holding an open public hearing.

Substantive:

2. Zoning Designation. The property is currently zoned Urban Low Residential (UL).

3. Review Criteria. The criteria of approval for preliminary plat approval is fairly diffuse, with compliance in general required with all the requirements of applicable chapters of Title 16 KCC. *See* KCC 16.04.080. Chapter 16.40 KCC specifically addresses preliminary plat applications. KCC 16.40.030 requires conformance to the general standards of Chapter 16.04 and 16.24 KCC. The staff report assesses all pertinent Title 16 KCC subdivision standards. The findings of the staff report in this regard are adopted by reference. This decision will address the primary focus of preliminary plat review, which as required by RCW 58.17.100 is adequacy of infrastructure and mitigated environmental and community impacts. The requirements of RCW 58.17.110 are largely duplicated in the opening paragraph of KCC 16.04.080, which is quoted below in italics and applied via a corresponding conclusion of law.

KCC 19.100.135 governs the criteria for approval of a critical areas variance. Pertinent criteria are quoted below and applied via corresponding conclusions of law.

Preliminary Plat

KCC 16.04.080: *For all types of land segregations, appropriate provisions shall be made for the public health, safety and general welfare, including but not limited to: open spaces, drainage ways, streets or roads, alleys, other public ways, nonmotorized access, road and pedestrian connectivity, parking, transit stops, fire protection facilities, potable water supplies, sanitary sewage wastes, solid wastes, landscaping, parks and recreation, playgrounds, sites for schools and school grounds, sidewalks or other planning features that assure safe walking conditions for students who only walk to and from school. The public use and interest will be served by the proposed land segregation. The following general requirements shall be met for all land segregations proposed under this title. In addition, all specific requirements relevant to each individual type of land segregation are found in their respective chapters of this title.*

4. Criterion met. The criterion quoted above is met. The proposal provides for adequate infrastructure and public services for the reasons identified in Finding of Fact No. 6. The public use and interest is served because the proposal creates no significant adverse impacts as determined in Finding of Fact No. 5 while also encouraging development at urban densities within an urban growth area as encouraged by the Washington State Growth Management Act. Public health, safety and welfare are provided for all the foregoing reasons.

KCC 19.100.135.A: *A variance in the application of the regulations or standards of this title to a particular piece of property may be granted by Kitsap County, when it can be shown that the application meets all of the following criteria:*

KCC 19.100.135.A.1: *Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this title shall not be the sole basis for the granting of a variance.*

5. Criterion met. The criterion is met for the reasons identified in FOF No. 7. Without the variance the Applicant would be unable to provide any access to the developable portions of the lot. The Applicant needs the access for single-family development. Single family development is an allowed use in the UL zone. Depriving the Applicant of the ability to develop single-family homes would thus deprive the Applicant of the ability to develop an allowed use that is authorized for the other property owners in the vicinity.

KCC 19.100.135.A.2: *The special circumstances referred to in subsection (A)(1) of this section are not the result of the actions of the current or previous owner.*

6. Criterion met. The criterion is met. The circumstances are a natural condition of the property, i.e. the on-site wetland, and are in no way the result of actions of the current or previous owner.

KCC 19.100.135.A.3: *The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this title.*

7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No. 5A. Approval of the variance is consistent with the policies and purposes of Title 19 as identified in KCC 19.100.105 because there will be no net loss of ecological function with implementation of required mitigation.

KCC 19.100.135.A.4: *The granting of the variance is the minimum necessary to accommodate the permitted use.*

8. Criterion met. The criterion is met since the Applicant will not be able to access the developable portions of the project site without the variance.

KCC 19.100.135.A.5: *No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.)*

9. Criterion met. The criterion is met since there is no other access available to the site.

KCC 19.100.135.A.6: *A mitigation plan that meets the requirements of Chapter 19.700 (where required) has been submitted and is approved for the proposed use of the critical area.*

10. Criterion met. The criterion is met by the applicant's mitigation plan, Ex. 42. As determined in Finding of Fact No. 5A, as mitigated the proposal results in no net loss of ecological function and has been verified by staff as meeting the County's critical area ordinance. The mitigation is thus found to meet the requirements of Chapter 19.700.

DECISION

Based upon the findings of fact and conclusions of law above, the preliminary plat and variance applications are approved subject to the following conditions:

a. Planning/Zoning

1. Permit approval is subject to conditions in the Hearing's Examiner Decision.
2. The proposal shall be compliant with the applicable zoning standards of the Urban Low (UL) zoning district.

3. At the time of SDAP submittal, the site plan shall show all current easements to ensure the project does not encroach on required setbacks or the easement(s) itself.

b. Development Engineering

GENERAL

4. 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.

5. Approval of the preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of Kitsap County Code Titles 11 and 12.

STORMWATER

6. The information provided demonstrates this proposal is a Large Project as defined in Kitsap County Code Title 12, and as such will require a Full Drainage Site Development Activity Permit (SDAP) from Development Engineering.

7. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the SDAP (or Building Permit if no SDAP required) application is deemed fully complete. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.

8. Any project that includes off site improvements that create additional hard surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with Kitsap County Code Title 12.

9. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Jasper Sogn at 360-972-6524 or by emailing at jasper.sogn@ecy.wa.gov. This permit is required prior to issuance of the SDAP.

10. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as an Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The applicant shall contact Ecology to determine if the facility is regulated under the UIC program.

11. The design of the infiltration facilities shall be accordance with Vol. II, Chapter 5 of the Kitsap County Stormwater Design Manual.

12. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion

and sedimentation ponds shall not be located over infiltration facilities. In addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.

13. 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 Engineering.

14. The impervious area per lot accounted for in the overall drainage facilities installed shall be indicated on the face of the final plat, along with the following note:

Additional impervious surfaces created on an individual lot beyond the amount accounted for in the overall drainage facilities shall be mitigated in accordance with Kitsap County Code Title 12 and may require a Site Development Activity Permit.

15. The following shall be added to the face of the Final Plat, under the heading Notes and Restrictions:

a. Maintenance of roof and yard drains and appurtenances shall be the responsibility of the individual homeowners.

b. All runoff from roof and yard drains must be directed so as not to adversely affect adjacent properties.

c. All lots are obligated to accept road drainage at the natural locations after the grading of streets is complete.

d. This Plat is subject to all elements of the Declaration of Covenant Conditions and Restrictions (CC&R's) recorded under Auditor File Number #####.

e. No owner or occupant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. It is expressly understood that any alteration of the water flow shall be completed only after approval by Kitsap County Department of Community Development.

16. The following condition shall be added to the face of the Final Plat: At the time of submittal of a building permit for any lot within this plat, soil amendment is required for all disturbed areas not covered by hard surface.

17. Prior to recording the Final Plat, soil amendment is required over all disturbed areas within Tracts that are not covered by hard surface; provided, that in the event completion of a Recreational Tract has been bonded, soil amendment shall be completed prior to expiration of the bond covering that work.

18. Prior to SDAP acceptance, the applicant shall submit a set of drawings to the City of Port Orchard for review. The applicant shall notify Development Engineering in writing when the plans have been submitted to the City. Development Engineering shall coordinate with the City to determine if the City has any comments to the submittal. County Public Works shall decide whether any requests from the City may be added as conditions to the proposal.

19. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before requesting final inspection for the

SDAP (or for the Building Permit if an SDAP is not required) 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.

20. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Engineering will require additional review and potentially new conditions.

OTHER

21. This project includes the construction of rock walls or other retaining facilities that either exceed four feet in height or sustain a surcharge. A separate building permit with an engineered design is required for such walls. This note shall be placed on the face of the final construction drawings.

22. Rock and retaining walls shall meet all applicable setback requirements of Vol. II, Chapter 9 of the Kitsap County Stormwater Drainage Manual.

c. Environmental

23. This project shall follow all critical area buffers and setbacks as depicted in the Wetland Delineation and Mitigation Plan (Beaver Creek Environmental Services, Inc.; 4/12/24 and revised 4/25/23).

24. Split-rail fencing shall be placed at the outer edge of critical area buffers, as depicted on the approved Landscape Plan.

25. A final Planting and Mitigation Plan shall be submitted with SDAP for the temporary impacts to Wetland A due to road construction.

26. Per the Geotechnical Engineering Report, dated February 19, 2024, a revised geotechnical analysis will be required with the SDAP application and engineered design to reassess the liquefaction analysis to determine at what elevation the subsurface water level can be maintained. This revised report should include review of the most recent engineered design.

d. Traffic and Roads

27. At building permit application, submit Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.

28. Prior to recording the Final Plat, vehicular access shall be constructed to provide access to all proposed lots.

29. The interior roads of the proposed plat shall be designed and constructed in accordance with Fire Marshal standards for emergency vehicular access.

30. The following shall appear on the face of the Final Plat, under the heading Conditions:

1 a. All interior roads shall remain private. Should the applicant or his successors or
2 assigns choose to dedicate these roads to Kitsap County, it shall be subject to a further
3 review by Kitsap County Development Engineering. All improvements necessary to
4 bring said road to the then current Kitsap County standards shall be done, at no expense
5 to the County, prior to being accepted into the Kitsap County Road system for
6 maintenance.

7 b. All lots shall access from interior roads only.

8 c. The property owners within the plat shall be responsible for maintenance of all
9 landscaping within the existing and proposed right of way including any structures
10 other than roadway, storm drainage facilities and traffic signage. Maintenance shall
11 include, but not be limited to, mowing of law areas.

12 d. Road approach permits shall be obtained prior to commencement of work on an
13 individual lot.

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

17 32. The hammerhead shall be designed to accommodate a SU design vehicle. The
18 dumpster enclosure shall not be considered as part of the hammerhead. The wheel path
19 of the design vehicle shall remain within the paved area for all required movements.

20 33. All rights of access for adjoining properties currently in existence shall be
21 preserved. Any amendment to the existing easement rights of adjoining property
22 owners shall be properly executed and recorded prior to SDAP acceptance or Building
23 Permit approval, if a SDAP is not required.

24 34. Sidewalk ramps shall conform to the current requirements of the Americans with
25 Disabilities Act per WSDOT standard plans at the time of construction.

35. The property owners shall be responsible for maintenance of all landscaping within
the existing and proposed right-of-way including any structures other than roadway,
storm drainage facilities, and traffic signage. Maintenance shall include, but not be
limited to, mowing of lawn areas. A note to this effect shall appear on the accepted
construction plans. In addition, Development Engineering reserves the right to require
that covenants be recorded to address special maintenance requirements depending on
final design.

36. Frontage improvements are required along the entire current east side of Parcel
#112301-1-006-2007, adjacent Bethel Rd., regardless of proposed, future BLA, and
shall consist of 12' travel lane, 5' bike lane, and 6' sidewalk per WSDOT standard plan.

37. Provide surveyed cross-sections at 50-foot intervals along the parcel frontage on
existing fronting roads where access is proposed. The cross-sections shall show
existing and proposed pavement, shoulders, ditches and slopes. The cross-sections shall
also depict centerline of pavement and right-of-way, the right-of- way lines, and
easements.

38. The Site Development Activity Permit (or Building Permit, if an SDAP is not
required) shall include plans for construction of the road approach between the edge of
existing pavement and the right-of-way line at all intersections with county or state
rights-of-way. Approaches to county rights of way shall be designed in accordance with
the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County

Code. Approaches to state rights of way shall be designed in accordance with current WSDOT standards. Existing approaches may need to be improved to meet current standards.

39. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.

40. The developer's engineer shall certify that there is adequate entering sight distance at all project intersections with County rights of way or State rights of way. 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 sight distance shall meet the requirements of the Kitsap County Road Standards for County rights of way and shall meet WSDOT standards for state rights of way. The certification shall also note necessary measures to correct and maintain the minimum sight triangle. The required information shall be submitted with the SDAP, or with the commercial building permit application if a SDAP is not required.

41. Before SDAP acceptance, the applicant shall submit a set of drawings to the Washington State Department of Transportation for review. The applicant shall notify Development Engineering in writing when the plans have been submitted to WSDOT. Development Engineering shall coordinate with WSDOT to determine if WSDOT has any comments to the submittal, but responsibility for obtaining concurrence from WSDOT lies with the property owner.

42. Final plan approval will require documentation of Washington State Department of Transportation (WSDOT) approval for impacts to and any required mitigation on State rights of way.

43. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process, or Building Permit process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

e. Fire Safety

44. None at this time.

f. Solid Waste

45. Prior to SDAP approval, the applicant shall provide documentation from the solid waste/recycling service provider that their requirements for this project have been met. Waste Management Northwest can be reached at pnwcmsservices@wm.com or 1-800-592-9995; their website is <http://wmnorthwest.com/kitsap/index.html>

g. Kitsap Public Health District

46. Any existing septic tanks on the lot must be pumped and abandoned to code.

47. Any wells on the lot must be decommissioned by a licensed well driller.

48. A sewer building clearance application including binding water and sewer availability letters for each unit/connection must be submitted.

h. Hearing Examiner

49. KCC 17.500.027A1 roadside and setback area screening applies to the east property line. KCC 17.500.027A2 screening applies to the south property line. KCC 17.500.027B2 solid screening applies to the northern property line along the adjoining commercial/industrially developed lot. No screening is required for the western property line or on the north property line where it adjoins an undeveloped lot. No screening is required within critical areas or buffers.

50. The Applicant shall demonstrate to the satisfaction of Public Works staff that the proposal provides for safe walking conditions to and from school or school bus stops to the extent consistent with constitutional nexus and proportionality restrictions. To the extent that this requirement is not met by the existing proposal, the Applicant shall be required to install reasonable and proportionate off-site improvements such as crosswalks, shoulder widenings and/or pathways to assure safe walking conditions.

Dated this 13th day of June, 2025.



Phil Olbrechts,
Kitsap County Hearing Examiner

Appeal Right and Valuation Notices

Pursuant to KCC 21.4.100 and KCC 21.04.110, this preliminary plat decision is a final land use decision of Kitsap County and may be appealed to superior court within 21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C RCW.

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