



COMMUNITY DEVELOPMENT

Notice of Hearing Examiner Appeal Decision

10/19/2026

To: Interested Parties and Parties of Record

RE:

Project Name: SILVERSIDE LLC-WOODSPRING SUITES - 4-story, 122-room Extended Stay Hotel (Vested)

Applicant: Silverside LLC

Appeal Type: SEPA & ADMINISTRATIVE

Appellant(s): Chris Rieland
2021 NW Myhre Rd
SILVERDALE, WA 98383

Andy Chen
402 Park Street
CHARLOTTESVILLE, VA 22902

Kellie LeTrexier
PO BOX 990
BREMERTON, WA 98337

Cavalon Place LLC
9927 MICKELBERRY ROAD
SILVERDALE, WA 98383

Kitsap Credit Union
2041 NW MYHRE RD
SILVERDALE, WA 98383

CPI/AHP Silverdale MOB Owner, LLC
achen@anchorhealthproperties.com

Appeal Permit Number: 26-00922, 26-00963, 26-00980, 26-01678, 26-01677

The Kitsap County Hearing Examiner has **DENIED** the **SEPA Appeals #26-00922, 26-00963, 26-00980** of **25-00737 Silverside LLC Woodspring Suites SDAP-COMM**, and has **APPROVED** the **Administrative Appeals #26-01677, 26-01678** of **25-00737 Silverside LLC**



Woodspring Suites SDAP-COMM, 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: SILVERSIDE LLC, PO BOX 4999 BREMERTON, WA 98312

Owner: SILVERSIDE LLC, PO BOX 4999 BREMERTON, WA 98312

Authorized Agent: Jessica Bruce, jbruce@ahbl.com; Sheri Greene, sgreene@ahbl.com

Engineer / Architect / Other Consultant: AHBL, kmaxey@ahbl.com;

Applicant's Representative: Vicki Orrico, Gordon, Thomas, Honeywell, vorrico@gth-law.com; Peter Durland, Gordon, Thomas, Honeywell, pdurland@gth-law.com; Jessica Roe,

McCullough Hill PLLC, jroe@mhseattle.com; David Carpman, McCullough Hill PLLC, dcarpman@mhseattle.com; Steve Gillespie, McCullough Hill PLLC, steve@mhseattle.com

Appellant(s): Chris Rieland, chrisr@pnwtkitsap.com; Andy Chen, achen@anchorhealthproperties.com; Kellie LeTrexier, kletexier@kitsapcu.org; Kitsap Credit Union, kletexier@kitsapcu.org; CPI/AHP Silverdale MOB Owner, LLC, achen@anchorhealthproperties.com

Appellant's Representative: John Hempelmann, jhempelmann@cairncross.com; Duncan Greene, dgreene@cairncross.com; Isaac Patterson, ipatterson@carincross.com; Kenneth Nelson, kennelson@dwt.com; Clayton Graham, claytongraham@dwt.com; Megan Raymond, meganraymond@dwt.com

County Representative: Neil Wachter, Kitsap County Pros, NRWachter@kitsap.gov;

County Departments: DE, PEP, DCD

Interested Parties: None

**BEFORE THE KITSAP COUNTY
OFFICE OF HEARING EXAMINER
FINDINGS AND DECISION**

In the Matter of the Appeals of:

**CPI/AHP SILVERDALE MOB OWNER, LLC;
KITSAP CREDIT UNION; PACIFIC
NORTHWEST TITLE OF KITSAP COUNTY;
and CAVALON PLACE LLC,**

Hearing Examiner File:
SDAP 25-00737

SEPA Appeals:
26-00922, -963, -980
SDAP Appeals: 26-01677, -678

of SEPA Threshold Determination and Site
Development Activity Permit, issued by Kitsap
County Department of Community Development.

I. FINDINGS OF FACT

1. Background. Kitsap County Department of Community Development issued a State Environmental Policy Act, Ch. 43.21C RCW Threshold Determination and Site Development Activity Permit for the Woodspring Suites Hotel, submitted by Park Silver Development, LLC, 8171 Maple Lawn Blvd., Ste. 380, Fulton, MD 20759. Five appeals ensued. Following a pre-hearing conference, in which deadlines for filing exhibits and witness lists were agreed on, a hearing was held on August 24, 25, and 26, 2026.¹

2. Exhibits and Briefing. The Appellants submitted Exhibits A1-A6. The Applicant submitted Exhibits B1-B15. The Department provided Foundational Exhibits (Record) F1-F-53. These exhibits were admitted without objection. The County also submitted Exhibits C1-C64, with admission ultimately sought and granted (without objection) for Exhibits C-22, C-46, C-50, and C-64. The parties submitted post-hearing closing briefs, with the last brief filed on September 30.

3. Party Appearances.² At the hearing, Isaac Patterson and Duncan Greene, Cairncross & Hempelmann, P.S. appeared for Appellants PNW Title, Cavalon Place and the Credit Union; Megan Raymond and Clayton Graham, Davis Wright Tremaine LLP, appeared for Appellants CPI/AHP; David Carpman and Jessica Roe, McCullough Hill PLLC, appeared for the Applicant; and Neil Wachter, Kitsap County Prosecutor's Office, Civil Division, appeared for the Department.

¹ The Applicant moved to strike issues relating to private covenants. The motion was denied without prejudice as the parties' briefing largely agreed on jurisdictional parameters. The Examiner noted objections to arguments or evidence going beyond Examiner authority could be made at hearing.

² See also Prehearing Orders (April 21 and May 26, 2026).

4. Witnesses.

Appellants: Stefanie Herzstein (Transportation Engineer, Transpo Group); Kelli LeTexier (Sr. Vice President, Kitsap Credit Union); Chris Rieland (President and CEO for PNW Title and Managing Member for Cavalon Place); Chris Pirkey (Sr. Property Mgr., Anchor Health); Jay Burghart (Executive Director, The Doctors Clinic).

Applicant: Jeff Schramm (Transportation Engineer, TENW); Rich Schipanski (Manager, EA Engineering, Science, and Technology, Inc.)

Department: Robert Hankins (Engineer with County Development Engineering); Olsen; Cecilia Olsen (Asst. Director, Department); Jeff Smith (Department Planner).

5. Project. The Applicant proposed a four-story, 48,660 square foot, 122-bedroom extended-stay hotel at 2031 NW Myhre Road in a developed urban area zoned Regional Center, which permits the use outright. The property is one of five parcels in the Highlands Business Park, which the Hearing Examiner originally approved in 2005 through a site plan review.³ The 2005 site plan shows the site as being developed with a one-story, 17,600 square foot retail building and associated parking lot; a bank building on the parcel to the north, which Kitsap Credit Union now occupies; and office buildings on two parcels to the south, which the other Appellants occupy.⁴ Roads surrounding the site are:

- North: Ridgetop Boulevard NW
- East: NW Myhre Road
- South: NW Bucklin Hill Road⁵

The original owners executed a 2005 Declaration of Covenants, Conditions, and Restrictions as the original approval (Condition 36) required covenants for “joint use of . . . off-street parking.”⁶ Under the 2005 CC&Rs, portions of the site not occupied by buildings are reserved for Business Park owners and tenants for driving and parking⁷ with vehicular access from the Ridgetop and Myhre driveways.⁸

The Project will provide 110 parking spaces, adding 91 stalls to the parcel’s existing 19. About one third of the stalls will be in front of the hotel building (and accessible directly from NW Myhre Rd and abutting parcels). The other two thirds will be behind the building. If the front lot is full, this would require drivers to exit the parcel after checking in and drive through the adjacent Credit Union parking aisles.⁹

³ Ex. F-53.

⁴ Ex. C-64.

⁵ Ex. F-8, p. 9.

⁶ Ex. F-25; F-53, p. 14.

⁷ Ex. F-25, §§ 5.1 and 8.1.

⁸ Ex. F-20.

⁹ Exs. F-20 and F-30.

6. Parking Supply and Demand. Hotels require one space per room or 122 spaces for the project.¹⁰ The Applicant requested a 10% reduction to 110, which the Department granted.

Overall, the Business Park has 334 parking stalls and an average cumulative peak demand of 215 stalls.¹¹ The project will add 91 net new stalls, leaving 425 stalls available and a cumulative peak demand of 243 vehicles.¹² The total reflects night peak demand, as peak hotel demand is at night, while other uses' peak is during the day.¹³

Appellants' transportation engineer, Ms. Herzstein, had consistent parking counts. She counted 331 current spaces and found a current peak parking demand of 216 stalls.¹⁴ She calculated future Business Park-wide supply of 403 spaces (excluding 19 stalls on the southernmost, undeveloped parcel).¹⁵ Ms. Herzstein modeled future peak parking demand differently than the Applicant's transportation engineer but arrived at a future peak parking demand of 257 stalls without the hotel and 318 stalls with the hotel. Both witnesses concluded future supply included more than peak demand would require. Appellants asserted the medical office use may add additional tenants, but technical analysis was not provided documenting likely figures from expanded occupancy.

The Appellants identified concerns on parking location for medical office appointments, emphasizing patient mobility concerns, and credit union concerns that customers will "take their business elsewhere" if they cannot park right next to the bank entrance.¹⁶ These concerns depend on an assumption that hotel users will park on other parcels during business hours. Ms. Herzstein stated this "may" or "could" happen¹⁷ while Mr. Schramm did not believe this would occur to a substantive degree.

Ms. Herzstein described a situation where vehicles who have not entered from the street directly accessing the back hotel lot (and enter the building through the back entrance), find the front parking lot full, may park on adjacent lots. The Appellants identified congestion and safety concerns with this. Party witnesses agreed that there are measures which can be taken to address such concerns, such as a parking management plan and signage.

Mr. Schramm testified to the hotel parking configuration, the Myhre and Ridgetop driveways, and trip distribution, as well as the extended stay nature of the hotel, in which lower guest turnover will mean a lower number of required check-ins as well as greater

¹⁰ KCC 17.490.030.

¹¹ Ex. B-5, pp. 3-4 (of AR).

¹² Ex. B-5, pp. 3-4 (of AR).

¹³ Testimony, Schramm; Ex. B-5, p. 4 (of AR). Mr. Schramm acknowledged his report misstated the future sitewide total as 444 rather than 425, but stated this still reflects more than adequate supply.

¹⁴ Ex. A-2, p. 4.

¹⁵ Ex. A-2, p. 2.

¹⁶ Ex. A-2, p. 5.

¹⁷ Ex A-2 at 8.

familiarity with parking and circulation arrangements.¹⁸ He concluded that less than half the trips the hotel generates in a given hour would circulate through the Credit Union's parking lot.¹⁹ During Credit Union business hours, this would equate to 17-28 cars per hour, or about one car every 4 to 7 minutes. Mr. Schramm testified that he would not consider this to be a significant adverse impact or interfere with normal operations. He testified that would not change even if peak-hour circulation added an additional vehicle every two minutes, because ordinary parking and pedestrian movements would not be interfered with. Mr. Schramm stated the drive aisles were 24 feet wider than the standard 20 feet needed to accommodate two-way circulation. Overall, he found the Business Park to be a typical urban shared site. Mr. Schramm's methodology details were provided through testimony, rather than in writing.

The Appellants argue the 4-7 minute figure is an average and there could be periods when vehicle trips are more clustered, which Mr. Schramm acknowledged, stating this would not change his conclusions. Ms. Herzstein did not affirmatively state that significant safety or other traffic safety impacts would occur. Ms. LeTexier, based on her experience, stated she believes the parking lot is currently unsafe, though she and the other witnesses did not provide technical analysis contradicting Mr. Schramm's analysis.

As for cut-through traffic, Ms. Herzstein testified that with the project there "could" be additional vehicles cutting through the Credit Union parking area.²⁰ Mr. Schramm testified that he did not believe additional cut-through traffic would be likely because the project would not make the drive-through into a more logical path of travel for users than the Ridgeway driveway. When asked, Ms. Herzstein did not testify that the project would have significant adverse transportation impacts.

7. Internal Circulation - SEPA Review. The Department requested analysis on internal circulation following receipt of comments from neighboring property owners within the Business Park. The request stated:

Consistent with KCC 17.420.030.E Design Standards and KCC 17.490.040 Off-street Parking Lot Design, please provide an enlarged view of vehicle and pedestrian access between the proposed Woodspring Building and the Kitsap Credit Union to demonstrate there are no pedestrian - vehicle conflicts and the driveway is sufficient to handle the volume of traffic to the rear parking area (west). Show access - utility easement, Credit Union building Drive-thru footprint, and connecting hardscape (i.e., sidewalk, driveway) access to the 74-space parking field.²¹

Given the questions on internal circulation, in addition to an analysis on parking demand, the Applicant provided a chart illustrating on-site internal circulation for vehicles

¹⁸ Ex. B-5, p. 6 (of AR).

¹⁹ Ex. B-5, p. 6 (of AR).

²⁰ Ex. A-2, p. 9.

²¹ Ex. F-21, p. 1.

and pedestrians and described how the CC&Rs applied to the site.²² The Appellants contested the adequacy of the materials submitted and whether the Department had adequate information on hand to make its SEPA determination.

II. CONCLUSIONS OF LAW

1. Jurisdiction and Standard of Review. The Examiner has jurisdiction over the DNS SEPA appeals and SDAP appeals. On a DNS, "[a]dministrative appeals are limited to review of a final threshold determination and final EIS for nonexempt project permit actions, as defined in Chapter 21.02."²³ Substantial weight is accorded to the DNS. Absent clear error, it is upheld.²⁴ This is a deferential review standard. The Director's decision is only reversed if the Examiner is "left with the definite and firm conviction that a mistake" was made.²⁵ To meet the SEPA burden, evidence of probable significant adverse impacts from the proposal must be provided.²⁶ "Significance" is "a reasonable likelihood of more than a moderate adverse impact on environmental quality."²⁷ In evaluating impacts, a proposal is evaluated based on the context it is set within.

For an SDAP appeal, the code provides for Examiner review through "a de novo open-record hearing in accordance with the hearing examiner rules of procedure."²⁸ An appellant has the burden to demonstrate that DCD erred in issuing the SDAP.²⁹ As the appeals are being considered through a de novo, open-record appeal proceeding as KCC 21.04.290.C prescribes, the entire record, including that submitted at hearing, is reviewed.³⁰

It was clarified at hearing that the SDAP Decision is not technically a permit; the Applicant will need to demonstrate compliance with conditions to receive the actual SDAP. County witnesses established and Appellants did not contest that the SDAP Decision is the appealable Type II decision for the project.

2. SEPA - "Prima Facie" Compliance. Case law has referred to a requirement that the SEPA lead agency establish "prima facie" compliance with SEPA. SEPA does not use the term. The standard is not high. It essentially assesses whether SEPA's procedural requirements were followed.³¹

The Department reviewed a SEPA Checklist prepared for the project that addressed all environmental elements and included new technical reports on issues such as

²² Exs. F-20, F-21, F-27, and F-28.

²³ KCC 21.04.290(E)(1); KCC 18.04.210 (Title 21 governs SEPA appeals).

²⁴ WAC 197-11-680(3)(a)(viii) ("Agencies shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight."); RCW 43.21C.075(3)(d).

²⁵ *Moss v. Bellingham*, 109 Wn. App. 6, 13 (2001).

²⁶ *Boehm v. City of Vancouver*, 111 Wn. App. 711, 719 (2002); *Moss v. Bellingham*, 109 Wn. App. at 23.

²⁷ WAC 197-11-794(1).

²⁸ KCC 21.04.290(C).

²⁹ KCC 21.04.290.B.

³⁰ HER 2.12.1.d (appeal decision is "based upon a consideration of the whole record").

³¹ *Wild Fish Conservancy v. WDFW*, 198 Wn.2d 846, 873 (2022).

geotechnical and stormwater.³² The proposal was reviewed by multiple agencies, including the fire marshal and Public Works departments.³³ Regarding transportation – the only substantive SEPA issue before the Examiner – the Department reviewed analysis on trip generation, assignment, queuing, and crash history in Mr. Schramm’s Transportation Impact Analysis.³⁴ Though a technical report on internal circulation was not provided, the issue was considered, including after public comment on same, and the planned internal circulation was identified on the site plan, with color coded arrows depicting vehicle and pedestrian routing.³⁵ At hearing, the process was detailed in the written record and in testimony from qualified professionals. They explained how the analysis was completed and how the Department concluded project impacts fell short of probable significance. The assessment considered that the use is permitted outright within an urbanized area, the structure of mitigating regulations,³⁶ and technical analysis, including on transportation.

The Appellants’ contention is not that SEPA was not completed, but that the review inadequately considered circulation and safety within the Business Park common areas. Before issuing the DNS, the Department considered parking in the context of the KCC 17.490.030.A.1 deviation³⁷ and reviewed the CC&Rs for shared parking and internal circulation.³⁸ The Department had the Traffic Impact Analysis, which found no crash history at the Business Park driveways and determined the project would not add to driveway queues.³⁹ In response to Appellant comments, the Department obtained information on drive aisle room around the Credit Union to accommodate two-way traffic and that the site plan includes sidewalks and crosswalks.⁴⁰ The record establishes “prima facie” compliance with SEPA by the Department in issuing the DNS.

3. SEPA - Parking. Parking is no longer an element of the environment under WAC 197-11-444⁴¹ and Ecology removed parking-related questions from its environmental checklist, WAC 197-11-960. The code incorporates WAC 197-11-444 and 960.⁴² Parking is not before the Examiner as a SEPA issue.

4. SEPA - Incorporation by Reference or Adoption. Appellants assert SEPA analysis from 2005 should have been formally incorporated or adopted. The Department could have done so (“[a]gencies should use existing studies and incorporate material by reference whenever appropriate.”).⁴³ However, these are not mandatory pathways for SEPA compliance and the Department determined it was “appropriate” to complete an

³² Exs. F-32, F-5, and F-14.

³³ Testimony, Smith and Hankins; Exs. F-17, F-22, F-23.

³⁴ Ex. F-8.

³⁵ Ex. F-20.

³⁶ See *Moss*, 109 Wn. App. at 22 (SEPA officials are authorized to rely on existing regulations to address project impacts, WAC 197-11-158).

³⁷ Testimony, Smith; Ex. F-32 at 16; Ex. F-29 at 1.

³⁸ Ex. F-29, p. 1; Testimony, Smith.

³⁹ Ex. F-8.

⁴⁰ Exs. F-20, F-21, F-30; Testimony, Smith and Schipanski.

⁴¹ WSR 23-01-119, effective January 20, 2023; Testimony, Herzstein.

⁴² KCC 18.04.125; KCC 18.04.290.

⁴³ WAC 197-11-635(1) and 630.

updated review, rather than rely on review from over 20 years ago. The Department reviewed a current SEPA checklist, current plans, current site-development materials, transportation information, comments, and Applicant responses for the hotel.⁴⁴ The “Revised DNS” label does not suggest anything different. Mr. Smith explained that the DNS was styled as a revision due to the earlier review, but the project itself presented impacts not previously analyzed, so it issued a new threshold determination. The Department determined this was the “appropriate” approach. Given the dated nature of the earlier analysis, the Department did not err in making this assessment.

5. SEPA – Probable, Significant Adverse Impacts/Circulation. The site is designed for shared use, as depicted in the original site plan and CC&Rs. The Applicant’s transportation engineer testified to his rationale for how the site can accommodate on-site circulation without creating significant impacts. That is not to say that there are no impacts or that other permitting processes and/or CC&R amendment is not required. There are changes occurring and there are issues with managing a jointly occupied site to ensure a smooth transition. However, probable, significant adverse on-site circulation impacts were not substantiated for SEPA purposes. DNS issuance was not clearly erroneous.

6. Parking Deviation, KCC 17.490.030.A.1. The Department approved a 10% Parking reduction based on code criteria for up to 25% reductions.

The director may authorize a reduction up to twenty-five percent to the amount of required parking if a project proponent demonstrates that, **due to the unusual nature of the proposed use**, it is reasonable that the parking required by this **section exceeds any likely need, or that trip demand reduction programs or public transit availability serves to further reduce parking demand.**⁴⁵

By code, if a project - due to its unusual nature - either has parking supply that exceeds demand, or public transit or trip reduction programs reduce demand, then a deviation may be supportable. While the Department has provided different rationales during its review process for the approval, the question for the Examiner is whether, under the language above, the Department’s grant of a 10% reduction was an error.

With respect to parking demand, it was not seriously disputed that 122 spaces for the hotel would exceed likely need. Appellants raised location and convenience concerns, but there was no real dispute on the adequacy, overall, of the 110 space figure.

The parties did dispute the proper technical use classification under the ITE Manual. Mr. Schramm determined that the “Limited Service Hotel” category was the most appropriate designation and that this produced an average weekday peak demand well below the proposed 110 stalls.⁴⁶ He explained the Limited Service Hotel category

⁴⁴ Exs. F-29 and F-32.

⁴⁵ KCC 17.490.030.A.1, emphasis added.

⁴⁶ Ex. B-5.

predictions are more reliable than the All Suites use type because it is based on a larger number of studies. Also, although the Limited Service Hotel definition allows for limited food service and meeting room spaces, and this hotel will have neither, suggesting parking demand will be lower than typical.⁴⁷ Ms. Herzstein's analysis predicted no more than about 80 stalls⁴⁸ would be required, though if considered under the "All Suites" use category, demand could jump to 111.⁴⁹

Mr. Schramm collected trip generation data for other local Woodspring Suites projects, which were lower than the ITE Manual predicted. He also testified that guests will be more familiar with the parking arrangements due to the extended-stay nature of the hotel. Ms. Herzstein suggested that extended-stay guests may leave cars in the hotel parking lot during the day while Mr. Schramm did not agree this likely.

At root, Appellants' primary argument is not a substantive disagreement with Mr. Schramm's conclusion but rather the assertion that a Limited Service Hotel is not "unusual" enough to qualify for a deviation. Mr. Schramm explained the hotel is unusual in two ways.

First, the Limited Service Hotel category describes a particular type of hotel that, due to lacking certain parking-generating amenities, will likely require a lower number of stalls than would other hotels – particularly during daytime hours when overlap with surrounding uses is likely.⁵⁰ Appellants asserted because the ITE Parking Generation Manual's prediction of peak demand for the standard Hotel category is comparable to the Limited Service Hotel category, this is not valid. Mr. Schramm explained that he had taken that into account and it did not change his conclusions, in part because the Limited Service Hotel category provides for a lower daytime demand than for a standard Hotel. Also, as the project will not have all the amenities a Limited Service Hotel would, its demand is likely lower. Second, as Mr. Schramm and Mr. Smith testified, the availability of the shared common-area parking provides backup overflow parking. While Mr. Schramm's calculations did not depend on counting these other spaces, they asserted this provides an additional reason why it is not necessary to provide 122 stalls.

The code does not require a particular degree of "unusualness." KCC 17.490.030.A.1 is not just to ensure adequate parking but to avoid requiring parking that exceeds likely need. As Mr. Schramm noted, requiring more stalls than a use needs creates unnecessary hardscape and limits the site devoted to productive use. Substantial evidence established that the otherwise required 122 stalls would "exceed any likely need" as modeled by both transportation experts. However, with no analysis in the SDAP on the project's unusual nature, this question should be returned to the Department for further review. The approach the Department took was otherwise reasonable and consistent with KCC 17.490.030.A.1.

⁴⁷ Ex. B, p. 19 (of AR).

⁴⁸ Ex. A-2, p. 6.

⁴⁹ Ex. A-2, p. 7.

⁵⁰ Ex. B-5.

7. 2005 Site Plan. The original Hearing Examiner Site Plan approval, at Condition 44, states that “[t]he uses of the subject property are limited to the uses” in the 2005 approved site plan and that “[a]ny other uses will be subject to further review pursuant to the requirements of the appropriate Kitsap County ordinances.”⁵¹ Condition 46 states that “substantial changes or deviations in [the] plans, proposals, or conditions of approval imposed shall be subject to the approval of the Hearing Examiner and may require further and additional hearings.”⁵²

The project changes the use from retail to hotel, doubles the size, and is four stories instead of one. This is a material change. While the use is permitted outright, as a use within a previously approved site plan, site plan amendment is required. Amendment authority now rests with the Department, not the Examiner. By code, administrative conditional use permit processes now apply “to uses formerly permitted after site plan review.”⁵³

8. Decision Requirements. DCD reviewed the project under an SDAP, as a Type II approval,⁵⁴ which “shall include”:

1. A statement of the applicable criteria and standards in this chapter and other applicable law;
2. A statement of the facts relevant to the decision;
3. The basis for a conclusion to approve or deny; and
4. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure that the proposed development will comply with applicable law.⁵⁵

The SDAP decision was titled as an “Acceptance Letter.” It identified the project, permit number, and decision. It states the Department “reviewed and accept[ed] for construction the site plans,” that “[s]taff have found the proposed site improvements to be generally consistent with Kitsap County Code,” and that it is final unless appealed within 14 days.⁵⁶ The decision directs interested persons to the “complete case file including findings, conclusions and any conditions of approvals.” This includes the DNS the decision references, associated checklist, and supporting materials. The DNS addresses Appellants’ comments and identifies Appellants’ parking deviation issue, based on KCC 17.490.030.A.⁵⁷

⁵¹ Ex. F-53, p. 15.

⁵² Ex. F-53, p. 15.

⁵³ KCC 17.540.010; Ch. 17.540 KCC. The master plan review process applies to parcels which are at least 40-acres, which exceeds Business Park size. KCC 17.440.020; Ex. F-53, p. 7.

⁵⁴ Ex. F-42, p. 1; KCC 21.04.070.

⁵⁵ KCC 21.04.070.B.

⁵⁶ Ex. F-42.

⁵⁷ Ex. F-29; *see also* Exs. F-9, F-32, F-5, F-8, F-14, F-19, F-21, and F-27.

The Applicant is correct that the SDAP directs parties to the SEPA review and it is true that KCC 21.04.070.B does not require all code provisions be identified or that the type of staff report required for Type III quasi-judicial and Type IV legislative decisions be prepared.⁵⁸ However, the code does require that the criteria, facts, basis for decision, and conditions be identified. The document titled “Acceptance Letter” does not include these. The Applicant and Department assert this is harmless error. However, in looking at the letter, it is not possible to tell what the rationale was for approval and what the conditions are. At hearing, it was explained that there are conditions, but they are not in the record, so it is unknown what those conditions are.

The analysis need not be as detailed as a quasi-judicial decision in an appeal such as this, but there does need to be basic compliance with the code criteria. As such, the SDAP should be returned to the Department. It is up to the Department exactly how to address this, whether that be through issuing a new decision or amending the original decision to include the necessary recitations, analysis, and conditions. In completing this review, the Department may determine that certain conditions should be in place, such as a coordinated Parking and Circulation Management Plan and/or that the CC&Rs must be amended to accommodate the new use.

9. CC&Rs. The Appellants assert the Department erred in concluding that the CC&Rs provided for adequate shared access and parking between the parcels. The Department did confirm a recorded legal document addressing access between the parcels is present⁵⁹ and that current Business Park users move and park freely among the parcels, confirming that shared access and parking is provided for. However, the CC&Rs also require that future uses be reviewed and approved per code.⁶⁰ As addressed above, those required processes have not yet been completed.

The adequacy of measures addressing shared access, including on-site circulation and parking, will be further reviewed through a site plan amendment and additional SDAP review. These review processes will likely necessitate CC&R amendment and/or the use of another document, such as a Circulation and Parking Management Plan. As the required review processes are not complete, and the Examiner is not the original decision maker for the SDAP and site plan amendment, the question on the appropriate conditions and agreements to address parking and internal circulation⁶¹ are returned to the Department for further review and decision.

⁵⁸ KCC 21.04.080.E; KCC 21.04.090.C.

⁵⁹ Ex. F-29, p. 1; Ex. F-25 §§ 5 and 6.

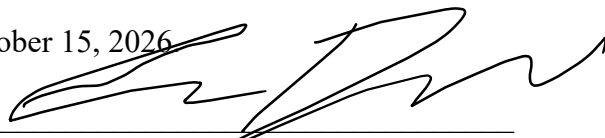
⁶⁰ Ex. F-25 § 11.3; F-26, and F-53, Conditions 44 and 46.

⁶¹ See also KCC 17.490.020.C.

DECISION

The Department's SEPA Decision is **UPHELD**. The SDAP Decision is **RETURNED** to the Department for further action consistent with this Decision.

Entered October 15, 2026



Susan Drummond
Kitsap County Hearing Examiner

Finality: *Absent a timely reconsideration request, this is the County's final decision. HER 1.9, 2.12.1(e)(requiring reconsideration filing within five business days). See Ch. 36.70C RCW (21-day appeal period to superior court). Parties are responsible for verifying appeal requirements.*