



Notice of Hearing Examiner Decision

04/20/2021

To: Interested Parties and Parties of Record

RE: Project Name: Goldleaf Preliminary Plat
 Applicant: Goldleaf Corporation
 1311 Marlow Avenue, Apt. A8
 Bremerton, WA 98310
 Application: Preliminary Plat (PPlat)
 Permit Number: #19-05056

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #19-05056 Goldleaf Preliminary Plat**, 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://spf.kitsapgov.com/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 at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. If you wish to view the case file or have other questions, please contact Help@Kitsap1.com or (360) 337-5777.

CC: Owner/Applicant: Goldleaf Corporation/Clinton Bergeron, goldleafcorp@comcast.net
 Engineer: Mark Eisses Map LTD, marke@map-limited.com
 Project Representative: Susan Venard @ Map-Limited, suev@map-limited.com
 Health District
 Public Works
 Parks
 Navy
 DSE
 Kitsap Transit

Central Kitsap Fire District
Central Kitsap School District
Puget Sound Energy
City of Bremerton Planning Director
Water Purveyor – North Perry Water District
Sewer Purveyor – Kitsap County Public Works
Point No Point Treaty Council
Suquamish Tribe
WA Dept of Fish & Wildlife
WA State Dept of Ecology-SEPA

Interested Parties:

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**KITSAP COUNTY HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**Goldleaf Preliminary Plat
File No. 19-05056**

April 20, 2021

1. FINDINGS OF FACT

1.1 Proposal. Divide a 2.42 acre parcel into 14 lots for single-family homes. The proposal includes a single access point, private interior road, recreational space, stormwater treatment and detention control facilities, landscaping, frontage improvements, and public water and sewer.

Applicant/Property Owner: Goldleaf Corporation, 1311 Marlow Avenue, Apt. A8, Bremerton, WA 98310.

Location: 6800 Block Illahee Road NE, Bremerton, WA 98311. Assessor Parcel No. 302502-3-051-2001.

1.2 Hearing. An open record public hearing was held March 25, 2021, following a continuance from February 25, granted at Applicant and citizen request to address public concerns. Due to COVID-19 restrictions, the hearing was conducted remotely, with the Examiner, Kitsap County Department of Community Development (“DCD”), and Applicant calling in. Access information was provided to the public to allow citizens to join via either a video link or telephone call-in. There were no reported technical difficulties during the call or afterwards. However, in case any citizens who wished to comment had difficulty calling in, and to allow additional time for the Applicant and neighbors to coordinate on development conditions, the record was kept open through April 8.¹ At the hearing, DCD, through Mr. Smith, described the project. DCD found it consistent with requirements, and recommended approval with conditions. The Applicant, through Mr. Bergeron and Mr. Eisses, further described the project. Several members of the public testified.

1.3 Hearing Testimony. The Applicant, through Mr. Bergeron, and Project Engineer Mr. Eisses testified. The Applicant confirmed there were no objections to proposed conditions. The project engineer did not believe the culvert required widening, and that the 12 inch culvert will handle plat water flow. He stated infiltration rates will be verified with pit tests during SDAP review (completing the pit testing now would have require early land clearing, which the Applicant wished to avoid). The Applicant did not object to the neighbor request for fencing, but would rather complete the work when homes are built to allow for connecting fences.

¹ See Temporary Emergency Rule to Address COVID-19 Situation (April 1, 2020).

In response to hearing comment (summarized below) Mr. Eisses stated that in the test pits completed, he did not hit the underground stream. That does not mean it is not there; additional test pits will be done to confirm stream location to avoid any issues. Additional soil investigation is warranted and will be completed. If infiltration capacity was underestimated, infiltration could be removed, and 100% detention used. The engineer stated a catch basin with a debris cover for the culvert under Illahee Road should be installed to avoid a blow out as has happened on Illahee Road further north. If everything goes into overflow, then 12 inch culvert adequacy should be confirmed.

Mr. Bergeron stated landscaping would be installed to the north (trees and bushes), though fencing is an option. The Applicant is not opposed to fencing on the site's front to screen properties to the north. Also, a cedar fence will be installed due to ravine safety issues; the Applicant had no objection to the requested fencing.

Mr. Vandenberg, representing the Case Family, LLC, a downslope neighbor from the project (6680 Illahee Road) testified. There is a ravine where stormwater is expected to flow, which goes onto an eastside neighbor (Linds), continues down and forms a boundary between the Linds and his clients, and then empties into the sound. His clients have valuable properties along the ravine and need assurances there will not be additional erosional impacts. His clients retained Aspect Consulting, which completed a site visit and reviewed the Applicant's design information. Aspect discovered that with the analysis used, infiltration rates may be overestimated, which would result in additional stormwater than calculated. If so, the 12 inch culvert may not be adequate. In a mega-rainfull event, there could be back-ups, and pressure on Illahee Road, which could fail, threatening downstream properties. He requested plat approval be upheld before SDAP approval. His clients are not the directly adjacent landowner so can't offer easements, so want to make sure testing is done before development.

Mr. Ely is a neighbor to the south of the Case property. He has lived there for 32 years and is familiar with stormwater runoff in the area. The majority of the water coming through his property emerges from the ground. As an example, when digging a trench on his property, he ran into an aquifer under his driveway, which required extensive dewatering. His concern is that the system is under designed. The net result could be "super-charged" groundwater, which create issues on his property. This is also an issue on the Case and Lind properties. There have been several slides on properties in the area due to this groundwater issue. Mr. Ely later clarified he knows the underground stream's location on his property, he is not certain of the location to the north; but, if water is added to the ground above, that water will encounter the underground river. This is water which runs year round.

Mr. Biggs testified on stormwater runoff. He lives in the Ambleside development, which has french drains that intercept groundwater. He referenced the HOA's (Ambleside Home Owner Association) written comments. He is concerned the infiltration and/or detention facilities won't keep up with flows. He asked that plat discharge not enter their open space and that the culvert be upsized. Any blockage would detrimentally affect the road prism, his property, and tree stability. He had made some effort to have someone from DCD walk the site. Mr. Smiley did visit, and had good insights, but at the hearing, had not been heard from.

Mr. Vero lives to the site's north and raised a concern about privacy loss.

Ms. Brown resides in Ambleside. She had a question about the fencing. She is concerned with split rail fencing as it wouldn't prevent encroachment and provide privacy. The trees now provide privacy, but with development, that screening would be removed. She requested clarification on the approach.

Following public testimony, DCD provided supplemental information. Ms. Vickery referenced KCSDM Section 5.1, which details subsurface investigation and infiltration testing. The Applicant may provide supplemental information from other professionals to address infiltration, which the Applicant did consistent with Appendix G. The requirement at the preliminary plat stage is 60% design. With SDAP review, the required testing is completed, and the Applicant must provide a Level II downstream analysis, which requires demonstration that mitigation is in place for downstream issues.

Mr. Smith noted that Mr. Smiley did visit, but based on his e-mail to Mr. Smith, deferred to DCD, as he did not have the stormwater concept. Mr. Smith emphasized that with Condition 16, if stormwater drainage does not function as outlined, lot number could be reduced.

Mr. Heacock, DCD Sr. Environmental Planner, discussed SEPA stormwater conditions. DCD is requiring the downstream analysis that Ms. Vickery discussed, which is a SEPA condition (Condition 4).

1.4 Administrative Record. The Examiner admitted Exhibits 1-41, which included the Staff Report, application materials, documentation of agency consultation, public notice documents, public comments, a DCD Power Point presentation, and two public comments submitted after the hearing.²

1.5 Notice. Hearing and application notice was provided consistent with KCC requirements.³

1.6 SEPA. DCD issued an unappealed Determination of Non-Significance.⁴ An interested party request was received from Arlene Lind. A public comment was received from David Ely, neighboring property owner, regarding storm drainage runoff and ground water impacts to the shoreline. DCD addressed the comment in the Staff Report, and included these conditions in the unappealed DNS:

1. The proposal will be conditioned for Stormwater control pursuant to KCC Title 12 (Stormwater Management). On-site dispersion and infiltration are proposed.
2. Due to the presence of moderate Geological Hazardous Area, the proposal

² The Examiner clarified a Condition 11 exhibit reference via an April 18 e-mail to the Examiner Clerk, which requested DCD confirmation. The proper references are Exhibits 14 and 15, rather than 1A and 1B.

³ Exhibits 8, 23, 27, and 35; KCC 21.04.080, .210.

⁴ Exhibit 24; Exhibit 28 (Staff Report), pp. 2-3.

- will be conditioned to follow the requirements in KCC Title 19.400.
3. 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 Preliminary Plat application was deemed complete, November 27, 2019. The project requires a Site Development Activity Permit (SDAP) and 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 Ordinances in effect at the time of SDAP application.
 4. Per Kitsap County Stormwater Design Manual, Vol. II, Chapter 4.7 Downstream Analysis, the Site Development Activity Permit shall include a Level 2 Downstream Analysis, based on evidence of excessive downstream groundwater concerns. The Level 2 Downstream Analysis shall provide a rough quantitative analysis to define and evaluate proposed mitigation.
 5. Frontage improvements, consisting of two 10-foot travel lanes with vertical curb and gutter on both sides, and a 5-foot sidewalk on one side, are required on the interior plat roads.
 6. The final plat shall include dedication of additional right of way width along the property frontage of Illahee Road NE; the right of way width shall be adequate to accommodate the following improvements: minimum required travel lane width, bike lane, and curb, gutter and sidewalk, per Kitsap County Road Standards for an Urban Minor Arterial road.
 7. Should the County form a County Road Improvement District (CRID) in the future for construction of the frontage improvements, the lot owners within the plat must agree to participate. Prior to recording the final plat, the applicant shall execute a No-Protest CRID Covenant, that obligates lot owners within the plat to participate. The owners will retain their right to oppose a CRID assessment but not formation of the district.
 8. The proposal will be conditioned per KCC Environmental Policy 17 (reducing storm water runoff). Safeguard the quality and quantity of long-term water supplies by identifying and protecting critical aquifer recharge areas and utilizing Low Impact Development (LID) to the greatest extent possible for reducing stormwater runoff.
 9. The proposal will be conditioned to follow the Illahee Community Plan, under Goal 9, which requires that the proposal address Illahee's pedestrian thoroughfares to provide safe multimodal transportation options in and out of the community.

1.7 Written Public Comment. Concerns addressed compatibility and zoning density, along with sewer, and stormwater impacts. The zoning code governs compatibility and density, and the plat is consistent. The lot is being developed consistent with the Urban Low Residential zone, which also surrounds the site on three sides. Kitsap County Public Works Wastewater issued a non-binding sewer availability letter. The Applicant submitted a preliminary storm drainage plan with a range of methods to mitigate storm drainage impacts pursuant to KCC Title 12. The 60% design plan was reviewed by Public Works and Development Services and Engineering to confirm the concept will function as proposed. The

Applicant submitted a report from EnviroSound Consulting, Inc., (January 6, 2020) to document feasibility of the approach to partial onsite infiltration. On behalf of neighbors, third party engineers reviewed the proposal and found as follows:

Based on Aspect's direct observations during our site reconnaissance, it is our opinion that the heavily vegetated Ravine adjacent to the Site is relatively stable and appears suitable for dispersion of the current levels of stormwater being discharged through the Culvert. Based on the current performance of the Ravine, the risk of concentrated erosion or landslide activity appears relatively low. However, increases in stormwater flowing through the Culvert could result in increased rates of Ravine erosion and destabilizing of the Ravine sidewalls.

The Development design includes stormwater BMPs designed to prevent the increase of stormwater runoff from leaving the Development. Two of these BMPs were designed utilizing saturated infiltration rates based on grain-size analysis correlations. Per Table 5.3 of the Kitsap County Stormwater Design Manual (Kitsap County, 2016), the minimum level of infiltration testing for on-site infiltration greater than 5,000 sf is the small pilot infiltration test (PIT) as described in Section 3.3.6 of the Stormwater Management Manual for Western Washington (Ecology, 2014).

Glacial till is mapped in the vicinity of the Development and was observed at the Site during our reconnaissance, it is our experience that glacial till typically has low long-term design infiltration rates that can be unreliable when determined using cursory grain-size analysis correlations that cannot account for the relative density and depositional environment of the glacial till. If the bioretention and permeable pavement BMPs are relying on overly aggressive design infiltration rates, the result could be an increase in stormwater runoff to the Culvert and Ravine that is not currently accounted for in the Development design. **We recommend verifying the design infiltration rates used for the Development BMPs with small PITs in accordance with Kitsap County requirements.**⁵

In addition to the Aspect comment, other citizens noted concerns about infiltration at this site:

[I]nfiltration isn't an acceptable answer here. Anything you put into the ground under that land will simply pop up on Lind's, Case's and my properties and become surface runoff, OR further saturate our banks and cause additional sloughing beyond what we've already had. All three of us have had slides since 2007. And our drainage and surface water management systems cannot handle any more volume.⁶

⁵ Exhibit 37 (Case Family, LLC Comment, attaching Aspect Consulting Memo, dated March 23, 2021), p. 4, emphasis added.

⁶ Exhibit 29 (Comment, Mr. Ely).

Given the infiltration issues, the plat should be conditioned to ensure the Aspect recommendations are adhered to. The proper timing for this is with SDAP (Site Development Activity Review). The Ambleside HOA, which represents properties surrounding the site on two sides also raised stormwater management concerns:

Project Description: Any residual offsite runoff from the common open spaces surrounding the project will be re-directed to the common open space of the Plat of Ambleside south of the subject property through a french drain.

Ambleside HOA Concern: No method of energy dissipation or flow spreading was proposed in the preliminary drainage report. We believe that the proposed french drain would concentrate stormwater discharge and could lead to erosion problems or tree destabilization within the open space tract.

Ambleside HOA Request: That the developer be required to provide a bypass conveyance system to route offsite runoff to the outlet of the proposed detention system

Project Description: This property drains through a culvert under Illahee Road at the southeast corner of the property discharging to a wooded and undeveloped private property and into Puget Sound, approximately 750 feet east of the project site.

Ambleside HOA Concern: The project proposes to discharge stormwater directly, or indirectly, through a conveyance system into the roadside ditch of Illahee Road. This ditch is discontinuous in places adjacent to Ambleside and the inlet of the culvert is believed to be within the "no cut buffer" adjacent to Lot 8 of Ambleside. Additionally this 12-inch I.D. concrete culvert is frequently choked with forest debris and roadside trash. Moreover, it may be undersized for the amount of undetained flow directed towards it should the detention/retention systems of the proposed plat fail/go into overflow. Any erosion or flooding due to backup at the culvert would be detrimental to Ambleside.

Ambleside HOA Request: That the developer be required to increase the size of the cross culvert to a minimum of 24-inch and provide a trash rack with overflow capability at the inlet.⁷

These concerns will be further considered by qualified professionals during SDAP review. At that time, if mitigation such as that outlined above or other measures are needed to protect against flooding and slope instability, the Department should impose them.

1.8 Agency Comment. The proposal was circulated within the County. As long as requirements are met, there were no agency objections to approval.

⁷ Exhibit 38 (Ambleside HOA Comment).

1.9 Zoning/Plan Designations. The Comprehensive Plan designation is Urban Low Density Residential and the zoning is Urban Low Residential.⁸ This zone is designed to:

[R]ecognize, maintain, and encourage urban low density residential areas by including a full range of urban services and facilities that are adequate at the time of development. This zone is also intended to create cost-efficient residential areas which are capable of allowing the provision of community services in a more economical manner.⁹

1.10 Zoning Code Sizing/Density Requirements. Urban Low Residential zone provides for minimum/maximum densities of 5-9 dwelling units per acre, which equates to 12-22 units here.¹⁰ At 14 units, the plat complies. Lot sizing requirements are also met.

Requirement	Proposed
Minimum Lot Size - 2,400 SF	3,318 SF (smallest proposed lot)
Maximum Lot Size - 9,000 SF ¹¹	5,250 SF (largest proposed lot)
Minimum Lot Width - 40 feet	40 feet
Minimum Lot Depth – 60 feet	59.45 feet
Maximum Height - 28 feet (KCC 17.420.060, #50)	Compliant
Setbacks <ul style="list-style-type: none"> • Front, 10-20 feet • Side, 5 feet • Rear, 10 feet 	Compliant

1.11 Surrounding Land Use and Zoning. Surrounding properties, developed with single-family homes, are zoned Urban Low Residential to the north, south, and west; and Urban Residential to the east.

1.12 Physical Characteristics. The wooded 2.42-acre property slopes generally down to the southeast corner at average 8-10% grades, with a depression near the southeast corner with about 10-12% slopes. Kitsap County resource maps indicate the site’s upper northwest corner has a moderate erosion hazard. County topographic mapping identifies a drainage course/small ravine starting from the southeast corner of the property down to the shoreline, with the Seattle Fault line about 800 feet south. The Kitsap County Soil Survey identifies Alderwood very gravelly sandy loam (6 to 15% slopes). The soil is moderately deep and moderately well drained. The site falls within the Illahee Subarea Plan boundaries and is subject to the Community Plan. A geotechnical report by EnviroSound Consulting, Inc., and an addendum report, were submitted and reviewed.¹² Report recommendations include inspections during footing excavation by a qualified geotechnical engineer, and footing drains and down spouts connected to the footing drains.

⁸ Exhibits 19 and 26; Exhibit 28 (Staff Report), p. 3 and attachment.

⁹ KCC 17.200.010.

¹⁰ KCC 17.110.213 (minimum density calculation based on net developable acreage); KCC 17.110.212 (maximum density calculation based on gross acreage); Exhibit 28 (Staff Report), pp. 3-4.

¹¹ KCC 17.420.060(A)(25).

¹² Exhibits 9 and 13.

1.13 Access and Transportation. Access to the plat is from Illahee Road NE, a minor arterial. The Applicant will deed a 31.5 foot property strip to Kitsap County to provide adequate room for frontage improvements in a future transportation improvement district, including minimum traveled lane width, bike lane, and sidewalk, curb, and gutter. One private paved internal road terminating in a cul-de-sac is proposed, providing access to all lots. The interior plat road will have frontage improvements consisting of vertical curb and gutter on both sides, and five-foot wide sidewalk on one side. Travel lane widths and on-street parking configurations will be designed in compliance with Kitsap County Road Standards for a local access road. Illahee Road NE is not currently served by transit and a bus stop is not required. The nearest bus route (#215 McWilliams Commuter) is about one half mile west on Sunset Avenue NE. Impact fees will be paid consistent with KCC 4.110.200.

1.14 Parking. The project includes on-street and off-street parking. Two off-street parking spaces are required per residential lot and 0.5 per lot for overflow on-street parking.¹³ 28 off-street parking spaces in driveways and seven on-street parking spaces are provided.¹⁴ DCD calculates the required number of spaces in the driveway and not within individual residential garages.¹⁵ At the midpoint of the private road there will be a widened area to provide seven parallel on-street parking spaces. During individual building permit review for the homes, the location and number of off-street parking spaces will be verified.

1.15 Central Mailboxes/Urban Plats. The trend is to move away from traditional rural box style and install a clustered mailbox for efficiency, security, and aesthetics. Where clustered mailboxes are proposed, the sidewalk will meet clear zone requirements.¹⁶

1.16 Landscaping. Entrance landscaping and street trees are required.¹⁷ The Applicant submitted landscape plans.¹⁸ The Applicant is proposing Norwegian Sunset Maple as the street tree. The final landscape plan will be submitted with the SDAP (Conditions 5 and 6).

Fencing would protect against encroachment and provide privacy for the Ambleside plat open space, and the Department recommended it. To ensure fencing adequacy, the Ambleside Homeowners Association requested a six-foot cedar fence, stating a split rail fence would not prevent encroachment or provide privacy. At the hearing, the Applicant stated it had no objection to installing such fencing on the sides of the plat abutting Ambleside. After the hearing, Ambleside HOA and the Applicant discussed placing privacy slats into an existing chain link fence. The Ambleside HOA request is for a six-foot cedar fence along the southern and western parcel boundaries, to be installed prior to final plat approval.¹⁹ As nothing further has been received from the Applicant, and the Applicant agreed to the request at the hearing, the requested fencing should be a plat condition to adequately address the privacy, safety, and encroachment concerns raised.

¹³ KCC 17.490.030.

¹⁴ Exhibit 28 (Staff Report), pp. 10-11.

¹⁵ KCC 17.490.030.

¹⁶ KCC 16.24.040(C)(1)(d).

¹⁷ KCC 16.24.040(F); Ch. 17.500 KCC.

¹⁸ Exhibit 14.

¹⁹ Exhibit 41 (Ambleside HOA Comment).

1.17 Signage. The Applicant may apply for signage near the entrance of the subdivision during or after construction,²⁰ although signage is not now proposed. When the final plat is recorded, all signage must follow code requirements.

1.18 Lighting/Urban Plats. The project will meet lighting requirements for exterior lighting.²¹

1.19 Stormwater. The preliminary drainage design provides water quantity control via several methods throughout the site: permeable pavement for a portion of the private roadway; a bioretention cell; an infiltration gallery; and, a detention vault. Many of these methods also provide for water quality treatment. Additional water quality treatment of runoff conveyed to the detention vault, as well as road runoff conveyed to the infiltration gallery, is proposed to be provided by Perfilter devices. Development Services and Engineering reviewed the proposal and based on its review of the Preliminary Drainage Report and Preliminary Engineering Plans, found the stormwater management approach supportable.²² This issue is further addressed in public comment, including through review by third party qualified professionals, as detailed above.

1.20 Water and Sewer Service. North Perry Avenue Water District will provide water.²³ Kitsap County Public Works will provide sewer.²⁴

1.21 Utility and Public Services.

- **Water:** North Perry Avenue Water District
- **Power:** Puget Sound Energy
- **Sewer:** Kitsap County Public Works
- **Police:** Kitsap County Sheriff
- **Fire:** Central Kitsap Fire and Rescue
- **Schools:** Central Kitsap School District #401

1.22 Solid Waste. Individual property owners will be responsible for solid waste collection. Waste Management approval is required for the plat (Condition 58).

1.23 Fire Protection. The Fire Marshal has reviewed the project and included conditions. Fire flow verification and adequate fire apparatus access for emergency responders are required and will be reviewed through the SDAP (Conditions 51-54).

1.24 Schools. Notice was provided to the Central Kitsap School District. Any comments received will be considered during SDAP review. School impact fees are required.²⁵

²⁰ Ch. 17.510 KCC.

²¹ KCC 17.420.030(C), Ch. 11.40 KCC.

²² Exhibits 1, 10 and 16.

²³ Exhibit 6.

²⁴ Exhibit 7.

²⁵ Title 4 KCC; KCC 4.110.220.

1.25 Design District Requirements. The project is within the Illahee Community Plan defined area and the Plan's View Protection Overlay, which includes standards for height restrictions, exceptions from height restrictions, and vegetation restrictions. Contractors/property owners must submit a View Protection Overlay – Zone Height Worksheet prepared by a licensed land surveyor, confirming that a residential structure does not exceed 28 feet in height.²⁶

1.26 Urban Standards – KCC 16.24.040. These requirements are met.

- Access. *See* above, including § 1.13.
- Public Transit. No additional public transit provisions have been made, but sidewalks will be constructed and the project is one half mile from a bus route.
- Non-Motorized Facilities. Sidewalks are required and will be constructed consistent with code. *See* § 1.13.
- Parking. *See* § 1.14.
- Fire Protection. *See* § 1.23.
- Landscaping. *See* § 1.16.
- Utilities - Water and Sewer. *See* §§ 1.19 and 1.20. The project is served with water and sewer, and by Puget Sound Energy.
- Recreation. The plat will include recreational open space amenities consistent with subdivision standards (14 units x 390 square feet = 5,460 square feet of recreation facilities).²⁷ The Applicant is proposing 5,868 square feet of recreation area.²⁸ Impact fees will be paid consistent with code.²⁹

1.27 Adequate Facilities and Improvements - KCC 16.04.080. Appropriate provisions for facilities and improvements have been made consistent with KCC 16.04.080, to ensure the plat serves the public interest.

- Code/Plan Consistency. The project, as conditioned, follows the Comprehensive Plan and County Code, which provide for attractive urban development adequately supported by urban facilities and services.

²⁶ Exhibit 22.

²⁷ KCC 16.24.040(H).

²⁸ Exhibit 28 (Staff Report), pp. 14-15.

²⁹ KCC 4.110.210.

- Access. County transportation requirements and plat conditions ensure access requirements are met. *See* § 1.13.
- Safe Walking Conditions. *See* § 1.13; sidewalks will be constructed to ensure safe walking conditions.
- Lot Configuration. Lots are not irregular and run at right angles to the street face.
- Homeowners Association. Conditions require property owner maintenance of certain plat conditions. Although an HOA may take responsibility for such work, such associations can be dissolved. Whether or not an HOA takes on these responsibilities, they remain with the ultimate property owners.

1.28 Single-Family Subdivision – KCC 17.420.037. The plat meets these requirements.

- Sidewalk Requirements. *See* § 1.13.
- Public Streets and Connectivity Requirements. *See* §1.13.
- Utilities Connectivity Requirements. Utilities are adequately connected.
- Landscaping Requirements. *See* § 1.16.
- Off-Street Parking. *See* § 1.14.

1.29 Conditions. The Staff Report's proposed conditions are necessary to ensure code requirements are met and to achieve consistency with the above findings. The Applicant confirmed there were no objections or concerns with these conditions. Additional conditions to address the stormwater and fencing issues were added to ensure resolution during SDAP review. Also, condition numbering was corrected, with numbering kept as close to the Staff Report as possible. Except as the Decision revises it, the Staff Report is incorporated.

2. CONCLUSIONS OF LAW

2.1 The Hearing Examiner reviews Preliminary Plat applications for consistency with Single-Family Subdivision/Development Standards and platting requirements.³⁰ These requirements include zoning and platting provisions in Titles 16 and 17, including KCC 16.04.080, KCC 16.24.040, and KCC 17.420.037. These regulations require that plats meet sizing and related requirements (*i.e.*, density, height, setbacks, and landscaping), and be adequately served with necessary infrastructure and services (*i.e.*, stormwater facilities, sewage, water supply, transportation facilities, recreational facilities, and schools).

³⁰ KCC 21.04.100.

2.2 The zoning code authorizes the proposed residential use at the densities proposed. As the findings address, and assuming the below conditions are complied with, the proposal meets all platting requirements, including lot size, setbacks, and infrastructure requirements. Conditions are imposed to ensure these requirements are complied with.

2.3 Conditions are imposed to ensure County transportation, stormwater, and water/sewer service requirements are complied with. The proposal, as conditioned, and as the findings address, includes provisions to address impacts on drainage; roads, including adequate access and safe walking conditions; water supplies; sanitary wastes; fire protection; landscaping; and other supporting public and private facilities and improvements.

2.4 As mitigated and proposed, the project is consistent with Comprehensive Plan policies providing for attractively designed urban development adequately supported by urban facilities and services.

2.5 Given project consistency with requirements and policies, the Hearing Examiner concludes it should be approved.

DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested Preliminary Plat, provided these conditions are adhered to:

1. All required permits shall be obtained prior to commencement of land clearing and/or construction.

Planning/Zoning

2. [Reserved]

3. Building permits for structures 28 feet in height will need to demonstrate compliance with requirements of the View Protection Overlay zone, per the Illahee Community Plan.

4. All building permits on these lots will be subject to impact fees pursuant to KCC.

5. A Final Landscape Plan will be required to be submitted consistent with KCC 17.500 Landscaping, during civil site development activity plan (SDAP) review, which depicts natural vegetation, and the planting and irrigation plan.

6. Street trees shall be planted along the access road on individual lots at approximately 25 foot spacing in the vegetative strip between the sidewalk and thickened edge. A final landscape plan will be subject to approval by the Department prior to SDAP approval. Trees on individual lots are required to be installed prior to Certificate of Occupancy of individual units. Landscaping, including street trees, is a condition of preliminary plat approval and is required to be maintained in a healthy growing condition per KCC 17.500.030.

7. At the time of SDAP include the location of mailbox clusters consistent with KCC 16.24.040(C)(1)(d) and specify the type of the facility to be provided within Tract B per KCC 16.24.040(H)(4) and confirm at final inspection.

8. Include a note on the face of the plat showing building setbacks for the lots as conditioned per the plat approval.

9. Prior to the plat transferring to the Homeowner's Association (HOA), the developer will be responsible for irrigation and maintenance of all landscaping to ensure survival up to two years. The developer or HOA should maintain all landscaping consistent with the Tree Care Industry Association's standard practices.

10. Pursuant to KCC Section 21.04.110 Timeline and Duration of Approval, Kitsap County's land use approval for the preliminary plat is valid for a period of up to five (5) years from the decision date of the preliminary plat consistent with RCW 58.17.140 and .170.

11. The decision set forth herein is based upon representations made and exhibits contained in the project application (Exhibits 14 and 15). Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County.

12. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.

13. Any violation of the conditions of approval shall be grounds to initiate revocation of this Plat.

13A. Land segregations of five or more lots within a UGA that propose roads and/or storm water facilities to be privately maintained shall form a homeowners' association, registered with the state of Washington. Conditions, covenants and restrictions (CCR) document shall address, at a minimum, ownership of and maintenance responsibilities for any private roads and any private storm water facilities.

Development Engineering

13B. 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.

13C. 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 KCC Titles 11 and 12.

13D. The information provided demonstrates this proposal is a Large Project as defined in KCC Title 12 Stormwater Drainage, and as such will require a Full Drainage SDAP from Development Services and Engineering that demonstrates a design meeting Minimum Requirements 1-9.

14. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with KCC Title 12 Stormwater Drainage effective at the time the Preliminary Plat application was deemed complete, November 27, 2019. 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 Ordinances in effect at the time of SDAP application.

15. Per Kitsap County Stormwater Design Manual, Vol. II, Chapter 4.7 Downstream Analysis, the SDAP shall include a Level 2 Downstream Analysis, based on evidence of excessive downstream groundwater concerns. The Level 2 Downstream Analysis shall provide a rough quantitative analysis to define and evaluate proposed mitigation.

16. The site plan indicates that greater than one 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 Josh Klimek at 360-407-7451, email joshklimek@ecy.wa.gov. This permit is required prior to issuance of the SDAP.

17. 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.

18. During the construction of the proposed permeable pavement infiltration facilities, the Project Engineer shall provide an inspection 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 properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.

19. The design of the infiltration facilities will be in accordance with Volume II, Chapter 5 of the Kitsap County Stormwater Design Manual.

20. The infiltration facilities shall remain offline 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 or be diverted to infiltration facilities.

21. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection 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 properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.

22. All retention facilities shall be a minimum of 200 feet from any slope steeper than 30%. This distance may be reduced based on a geotechnical engineering report. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.

23. This project includes the construction of a detention vault, which requires a building permit issued by DCD. A Structural Engineer, registered in the State of Washington, shall prepare the construction drawings. In addition, a geotechnical engineering analysis of the vault design is required. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.

24. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of 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.

25. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.

26. The rooftop area and driveway area per lot accounted for in each of the drainage facilities installed shall be indicated on the face of the final plat, in an Allowed Impervious Surface Table as shown below.

	Detention System	Bioretention System	Infiltration System
Lot 1 rooftop			
Lot 1 driveway			
Lot 2 rooftop			
Lot 2 driveway			
Etc. for each lot			

27. The following note shall be placed on the face of the Final Plat: Additional impervious surfaces created on an individual lot beyond the amount indicated in the Allowed Impervious Surface Table, or impervious surface areas directed to a facility other than that shown in the Table, shall be mitigated in accordance with KCC Title 12 Stormwater Drainage and may require engineered drainage design and/or a SDAP.

28. 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.

29. 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.

30. If the project proposal is modified from that shown on the submitted site plan accepted for review September 10, 2020, Development Services and Engineering will require additional review and potentially new conditions.

Environmental

31. The Applicant is required to follow the geotechnical report recommendations, per KCC Chapter 19.400 Geological Hazardous Areas.

Traffic and Roads

32. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the KCC. The KCPW 1601 form reserves road capacity for the project.

33. The following note shall appear on the face of the final plat map: All interior roads shall remain private.

34. 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.

35. Sidewalk ramps shall conform to the current requirements of the Americans with Disabilities Act per WSDOT standard plans at the time of construction. The Applicant is encouraged to request sidewalk and ramp form inspections to ensure grade is met.

36. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.

37. The property owners within the plat shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, 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 face of the final plat map and the accepted construction plans. In addition, Development Services and Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.

38. Provide surveyed cross-sections at 50-foot intervals along the parcel frontage on Illahee Road NE. The cross-sections should show existing and proposed pavement, shoulders, ditches, and slopes. The cross-sections should also depict centerline of pavement and right-of-way, the right-of-way lines, and easements.

39. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the KCC. Existing approaches may need to be improved to meet current standards.

40. Frontage improvements, consisting of two 10-foot travel lanes with vertical curb and gutter on both sides, and a 5-foot sidewalk on one side, are required on the interior plat roads.

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

42. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of Illahee Road NE and the plat road. 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. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.

43. All work, equipment and materials for traffic signal and street lighting installations shall meet and be in compliance with all requirements of the Kitsap County Road Standards, Project Contract Provisions of Plans and Specifications accepted for construction by Kitsap County, Manual on Uniform Traffic Control Devices (MUTCD), National Electrical Manufacturer's Association (NEMA), National Electrical Code (NEC), Washington State Department of Transportation (WSDOT) Standard Specifications and Standard Plans, and the Occupational Safety and Health Administration (OSHA).

44. The final plat shall include dedication of additional right of way width along the property frontage of Illahee Road NE; the right of way width shall be adequate to accommodate the following improvements: minimum required travel lane width, bike lane, and curb, gutter and sidewalk, per Kitsap County Road Standards for an Urban Minor Arterial road.

45. Should the County form a County Road Improvement District (CRID) in the future for construction of the frontage improvements, the lot owners within the plat must agree to participate. Prior to recording the final plat, the Applicant shall execute a No-Protest CRID Covenant that obligates lot owners within the plat to participate. The owners will retain their right to oppose a CRID assessment but not formation of the district.

46. 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. The need for and scope of bonding will be determined at that time.

Survey

47. A Final Subdivision Plat shall be prepared by a licensed Land Surveyor in compliance with KCC Title 16.

48. All private roads shall be labeled as tracts and constructed in accordance with Fire Code requirements. Ten feet for utility easements shall be provided on each side of private road tracts.

49. All potential park areas, common open space, buffers and stormwater management areas shall be labeled as separate tracts. The ownership and maintenance responsibility shall be addressed on the face of the final plat, as well as in the CCRs.

50. Access to all lots shall be from roads within the proposed plat boundaries. A note to this effect shall be placed on the Final Plat.

Fire Safety

51. The minimum fire flow requirements for one- and two-family dwellings in subdivisions shall be 500 gallons per minute for thirty (30) minutes.

52. Water line size and the location of fire hydrants must be shown on SDAP plans. A letter of water availability indicating available fire flow from the water purveyor is required to be submitted to the Kitsap County Fire Marshal's office prior to the approval of any building permits.

53. When required by the Fire Code Official, fire department access roads shall be posted with approved signs or marked as follows: All curbs shall be painted red on the sides and top, and shall be labeled with 4-inch high white lettering at 25-foot intervals with the words "NO PARKING FIRE LANE" IF 503.3.

54. Hydrants may be relocated as authorized and marked on plans with future submittals.

Public Works Sewer

55. The Sewer Availability Agreement account must be kept current and in good standing.

56. Kitsap County sanitary sewer is available for the project. The Applicant needs to submit a complete set of sewer plans, profiles, and specifications designed in accordance with Kitsap County Public Works – Sewer Utility Division Standards and Regulations.

57. Kitsap County sanitary sewer is available for the project. The Applicant needs to submit an "Application to Construct Sanitary Sewer" to KCPW Sewer Utility Division.

Solid Waste

58. Prior to SDAP approval, Waste Management shall be contacted for information on implementing the solid waste/recycling storage requirements influenced by the service provider for the project. Pay particular attention to the access requirements of collection trucks. Documentation shall be provided from the solid waste/recycling service provider that their requirements for this project have been met. Contact information for Waste Management can be found at <http://www.wmnorthwest.com/>

59. 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.

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

Kitsap Public Health District

61. Sewered building clearances will be required prior to building permit issuance with binding water and non-binding sewer letters.

Examiner Added Conditions

62. Install six-foot cedar fencing along the plat's southern and western boundaries.
63. During SDAP review, follow the recommendations of the Aspect Consulting Memo, dated March 23, 2021 (Exhibit 37).
64. Review the Ambleside HOA (Exhibit 38) comment with the SDAP.
65. Concurrent with its SDAP application, the Applicant shall document mailed notice of the SDAP application to the neighbors who submitted written comment raising privacy/encroachment and stormwater concerns.

Absent a timely appeal or grant of reconsideration, this Decision is final.³¹

DECISION entered April 20, 2021.



Kitsap County Hearing Examiner
Susan Elizabeth Drummond

³¹ Ch. 36.70C RCW (providing requirements for appeal within 21 days to superior court); HE Rule 1.9.1.