



Kitsap County Department of Community Development

Kitsap County Board of Commissioners Staff Report and Recommendation

Report Date: January 22, 2025
Hearing Date: February 03, 2025

Application Submittal Date: August 26, 2024
Application Complete Date: Sept. 23, 2024

Project Name: 24-04007 Revision to Arborwood Development Agreement

Type of Application: Development Agreement-Extension

Permit Number: 24-04007

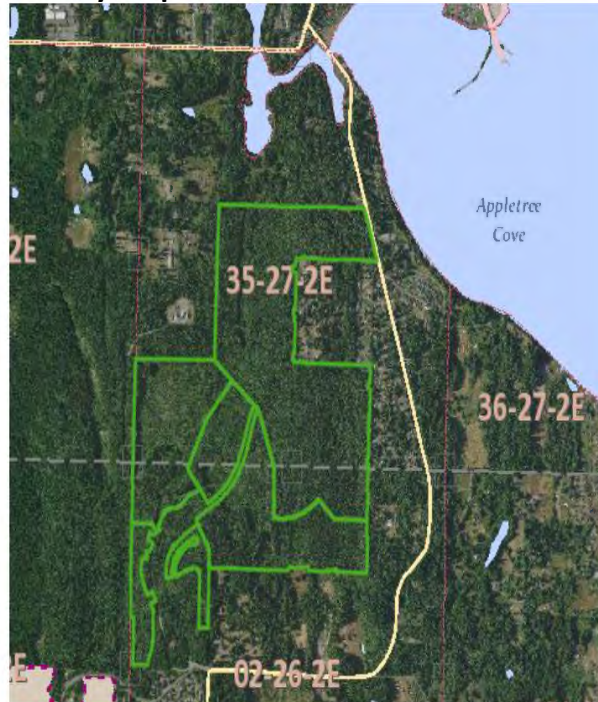
Project Location:
24828 S Kingston Rd NE
Kingston, WA 98346
Commissioner District 1

Assessor's Account #:
(Multiple Assessor's Tax #'s)

Applicant/Owner of Record:
Taylor Morrison Northwest, LLC
13810 SE Eastgate Way, #410
Bellevue, WA 98005

Pulte Homes of Washington, Inc
3535 Factoria Blvd SE, #600
Bellevue, WA 98006

Vicinity Map:



1. Background

In Kitsap County, Development Agreement applications are reviewed and approved as a Type-IV permit, pursuant to KCC 21.04.220. Per definition KCC 21.02.146, Development Agreement means an agreement between the County and a person or entity who owns or controls real property regarding development use and/or mitigation of proposed development of that property. Development Agreements are authorized through the Local Project Review Act (RCW Ch 36.70B) enacted 1995, as outlined under RCW 36.70B.180 which addresses vested rights under a development agreement.

Pulte Homes of Washington, Inc and Taylor Morrison Northwest, LLC (applicants) are requesting a Development Agreement (DA) extension, pursuant to KCC 21.04.220, for the preliminary-approved Arborwood Plat/PUD (formerly known as Applewood). Kitsap County conditionally approved the Arborwood Performance Based Development (PBD) and the underlying Preliminary-approved plat on October 28, 2009, for 751 residential units and up to 20,000 sq ft for a commercial land use. The original project provides 104 acres of open space to be dedicated to the North Kitsap Heritage Park. The previous approvals include a Development Agreement approved by the Kitsap County Commissioners effective on March 10, 2010, to be in effect for 15 years with a potential 5-year extension (Auditor File 20104401022).

The *Supplemental Application for first Amendment to Development Agreement*, Section 1 incorrectly references a February 8, 2025, deadline, instead of March 10, 2025 as the last signature for the original DA. The DA was negotiated in exchange for abandoning a prior-vested (pre-2010) and more sprawling development where the County approved a DA for a 751-lot residential development on approximately 360 acres. The 2010 approval brought the land into the Urban Growth Area under the Urban Cluster Residential (UCR) zoning designation with an expected March 2025 completion date and incorporated a 104-acre public-use recreational 'Greenway' parcel complementing the existing County North Kitsap Heritage Park, including connectivity.

For multiple reasons, listed below, the applicants have not been able to meet the 2025 deadline, resulting in a request for amendment to the original DA. The application for an amendment to the DA was declared counter complete on September 23, 2024, and a State Environmental Policy Act (SEPA) Addendum was issued on December 17, 2024. The remaining steps to a determination on this application rests with the Board of County of Commissioners and a public hearing process.

2. Project Request

The applicants are requesting a 5-year extension to the approved 15-year Arborwood Development Agreement, which otherwise expires March 10, 2025. The request is allowed by terms of the original DA. The request is reviewed as a Type-IV application pursuant to KCC 21.04.090 and the Board will conduct the public hearing and issue a notice of decision per KCC 21.04.260. The range of alternatives for the Board to consider include:

- 1) Approve the requested 5-year extension. This would include the name amendment to the DA, as well as the changes modifying the agreement to a 'completion' threshold of 51% of lots being final platted (vs today's DA which specifies 51% home buildout) and giving the applicant additional grace for DCD review delays and delays due to other legal matters, such as appeals. This maintains the current course of development, subject to current appeals.
- 2) Approve the extension amendment with changes. Changes to the DA have been contemplated by DCD staff, including requiring current development code standards to be met as part of a modified approval.

- 3) Disapprove the extension. This alternative maintains vesting of the existing counter-complete permit applications, including the preliminary plat. The applicant would rely on existing code for further development. However, other elements of the overall development could be jeopardized.

3. SEPA (State Environmental Policy Act)

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW, is a state law that manages SEPA requirements, checklists, and determinations. A SEPA Addendum was issued, dated December 12, 2024, to the previous MDNS, dated July 21, 2009. The SEPA determination noted information/SEPA mitigation conditions have been imposed and are listed under conditions within the MDNS and Hearing Examiner Notice of Decision. There is not a by-right SEPA appeal period for SEPA Addendums.

4. Physical Characteristics

The Arborwood Plat encompasses a total of approximately 360 acres. This undeveloped area is located adjacent to the south side of the Arness Slough, west of South Kingston Road NE and in the south end of the Kingston Urban Growth Area. Access will be from Taree Drive NE. The undeveloped site is covered primarily with third growth forest. The site is vegetated with a mix of conifers and deciduous trees and has moderately dense understory of ferns and brush typical of third growth forests of the region. The site contains geologically hazardous areas, wetlands and associated streams flowing west to Grover's Creek and north to the Carpenter Estuary. In addition, the northeast portion of the site falls within a Bald Eagle management zone. The project is vested to the critical area regulations in place, dated January 11, 2010.

A. Wetlands

Approximately 39 wetlands have been identified and delineated on the Arborwood property, totaling 27 acres that were analyzed through preliminary land use review. Wetland buffers encompass approximately 124 acres. The previous applicant provided a revised wetland analysis that was prepared by Raedeke Associates, Inc, dated August 13, 2018.

The co-applicants hired Ecological Land Services to provide additional refinement of the wetland and buffer analysis. The analysis describes lot reconfiguration located at the north end of Arborwood, within Phases 4 and 5. The revision eliminates development impacts to the newly discovered wetland 401. Upon consultation, a letter was provided by the United States Army Corps of Engineers (USACE) confirming that the small, isolated wetland did not require a Nationwide Permit to fill as it was under the threshold. Further, the wetland will be mitigated within the plat buffer averaging plan. A Nationwide Permit may be required for other isolated wetlands or stream impacts located in future Arborwood phases (ie, road crossings, utility installations).

B. Fish and Wildlife Conservation Areas Streams

The County regulates new development adjacent to streams through KCC 19.300.315 *Development Standards*. The project site contributes surface water to two separate basins, Grover’s Creek, and Carpenter Creek. There are two independent drainages that bisect the property from the south to the north. Both streams flow through the property from the south to the north and enter the Carpenter Creek estuary. The east creek is named Kingfisher Creek, and the west tributary is called Crabapple creek. One additional tributary to Grover’s Creek has been identified in the southwest corner and is the headwaters of the south fork of Grover’s Creek.

Pursuant to KCC 19.300 and the Development Agreement for the plat, wildlife corridors are required to protect wildlife from urban impacts. As analyzed in the EIS for Applewood, clearing, grading and construction activities for roads and associated facilities would eliminate a portion of the upland forest vegetation and wildlife habitat from the site.

Half of the original area analyzed in the prior EIS was removed and eliminated from the original project, thus reducing the area of overall impacts. A portion of the excluded area was dedicated into the 104-acre County Greenway Conservation Area. The retained native areas within the plat formed habitat corridors that connect with existing native habitats to the north (encompassing the Carpenter Creek tributaries and estuary), and to the west, which is adjacent to the North Kitsap Heritage Park. (See 1993 Applewood Draft EIS and appendices, 1994 Applewood Final EIS, 1996 Arborwood EIS Addendum, and 2003 Final Supplemental EIS for Kingston Sub-Area Plan.)

C. Geologically Hazardous Areas – Steep Slopes

The Department applied requirements from KCC 19.400.435 Development Standards for erosion and landslide areas. The slopes on the developable portion of the site range on average from approximately 2% to 22%. The site consists of generally north-south rolling topography and valleys created by glaciation. Site elevations range from 30 ft above mean sea level along the north side to 300 ft in the southeast corner. Kitsap County resource maps indicate that approximately 30% of the site is covered by Geologic Hazardous Areas of Concern. During preliminary land use review, the geotechnical analysis prepared by the consultant states that field observations did not find evidence of erosion, instability, or previous land slide areas.

Table 1 - Comprehensive Plan Designation and Zoning

<u>Comp Plan Designation:</u> Urban Low Density Residential <u>Zone:</u> Urban Cluster	Standard	Proposed
Minimum Density	5-Dwelling Units per acre	The project density is 5 dwelling units per acre

Maximum Density	9-Dwelling Units per acre	(approved for Proposed lots of 3,600 sf, and typical lot dimensions 50 ft x 100 ft)
Minimum Lot Size	NA	2,480 sf
Maximum Lot Size	NA	12,447 sf
Minimum Lot Width	NA	31 ft
Minimum Lot Depth	NA	80 ft
Maximum Height	35'	<35 ft
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Table 2 – Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

D. Access

The preliminary plat will receive vehicle and trail access from two approaches from South Kingston Road NE at two separate locations. In a later phase

(Phase 4), the north entrance will be incorporated into a newly constructed roundabout on NE South Kingston Road. With the current proposal, the southern entrance to the site will connect with Spine Road A. The intent is that the Spine Road will provide a future north-south connection with two entrances as well as provide internal access to local access roads. Consistent with County requirements, the Fire Marshal's Office will require a second road access to the plat when the development reaches 100 dwelling units. Later phases, which are not part of this amendment, include access and intersection improvements at the north entrance and access from Spine Road D on the east side.

E. Greenway Conservation Easement and Dedication; Open Space and Trails

There have been discussions of the alternatives and the potential impacts to the 'Greenway' conservation easement. There is discussion in Section 2.5 of the DA, where the agreement outlines facilitation of development of adjoining areas, and the conservation easement will allow the installation of facilities for trail, drainage, access, utilities, and similar uses within the Greenway. The regional public trail link along the internal spine road will be part of the dedicated road right-of-way to the County. The regional trail standard will be a 10-ft wide, paved pedestrian and bicycle path adjacent to the spine road. When complete, this trail will be owned by Kitsap County. Except for the regional trail link, the north/south mid-point connector trail links to adjoining property, the Greenway Trail,

and other trails would be dedicated to and maintained by Kitsap County. Attachment H to the DA Amendment provides a summary of the construction, ownership, maintenance, and phasing of the regional trail, the north/south mid-point connector trail to the adjoining property and the Greenway Trail. If the requested DA Amendment is not approved, the applicant indicates the open space tract would not be public and would be managed by the property owners within the Homeowners' Association (HOA).

5. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires the County adopt a Comprehensive Plan, and then implement the plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

See Kitsap County Comprehensive Plan, adopted December 2006 and see vested policies in staff report for file 07-47662.

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

Code Reference	Subject
Title 11	Road Standards
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Title 19	Critical Areas Ordinance
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

6. Public Outreach, SEPA, and Comments

Pursuant to KCC Title 21 *Land Use and Development Procedures*, the Department gave proper public notice 800 ft around the subject property for the land use. The SEPA 14-day comment period previously occurred concurrent with the Notice of Application dated 10/04/2024. The Department received comments from eight people. This includes written comments from Gary Steele, Joe Lubischer, April Ryan, Ben Strobel, Glen Hutchinson, and Betsy Cooper. Comments submitted to the county include discussion of traffic impacts on South Kingston Rd, public notice requirements and preferences, documenting environmental impacts, and vested rights case law.

7. Vested Development

This report includes a list of existing permits that are vested regardless of a determination by the Board on the requested amendment to the DA. A denial of the DA will require future

permits to meet current code: any proposed amendment to the preliminarily approved plat boundaries, any new preliminary plat proposals, and other development would need to be meet current development codes, including the primary codes of KCC Titles 12 Stormwater Drainage, 16 Land Division and Development, 17 Zoning, 19 Critical Areas Ordinance, and current road standards as applicable. Requirements to meet current code would allow more uses and greater land use intensity. Building permits are required to meet current International Residential Code based on the application date, not the vested date of underlying land use permits.

8. Review Authority

The Kitsap County Board of Commissioners has review authority for this Development Agreement extension application under KCC 21.04.220. The Board may approve, approve with conditions, or deny the request. Below is an analysis of the range of alternatives the Board can consider when issuing a notice of decision the Type-IV application pursuant to code requirements.

Alternative 1: Approval of Requested Extension.

Approval of the extension to the DA would simply allow the project to proceed as authorized in the original DA, but with certain changes. The requested changes would officially include Taylor Morrison and Pulte and extend the term to 20 years to March 10, 2030, with another optional five-year extension clause and commensurate extensions allowed due to appeals and other legal actions.

The request also asks the five-year extension—to a the proposed 20-year DA—to allow an extension of five years if DCD is not able to ‘review and issue a final decision on all Implementing Approvals.’ If this is considered, the amended DA will need to be clear about what ‘Implementing Approvals’ means. The five-year extension clause also removes the 51% requirement for homes to be built and instead require 51% of the lots to be approved within a final plat. If this pr

In a variation to Alternative 1, the Board of County Commissioners could choose to adopt elements within the request, but not other elements within the request. Ie, the Board could adopt the party name changes and the extension, but none of the other requested changes.

Alternative 2: Approval with Modifications to the Requested Amendment

DCD has internally discussed the idea of modifying approval of the request to better represent current concerns expressed by the Kingston community. These could come as additional conditions of approval, which would be captured in a new modified DA. While DCD cannot influence the density range of the project since it must meet the range of 5 to 9 dwellings per acre, it can look to better practices of development that newer codes provide. DCD does not contemplate a significant role with KCC Title 16 Land Division and Development, and Title 17 Zoning, but would condition the DA nonetheless to ensure any subsequent development meets current code.

The current road construction standards have generally been used to advise the applicant on current design and road construction. In any case, a condition to use current road standards would be recommended with this alternative. To mitigate the fire access limitations for fire apparatus, DCD would ask the Board to consider imposing a fire sprinkling requirement for new homes, which has long been in favor by the fire district.

As to conditioning a modified approval with the current Title 12 Stormwater Drainage, the original-vested standards do not provide for compliance with current Minimum Requirements established by the WA Dept of Ecology. This includes Minimum Requirement 8 for wetland protection, requiring the applicant to demonstrate impacts to wetland hydrology based on wetland category and an associated habitat score. The project currently vests to the 1997 Stormwater Manual adopted prior to development of Low Impact Development (LID) principles. LID involves post-construction soil quality amendments to regain stormwater functions in the landscape lost through site clearing and grading activities. The project can consider current stormwater regulations to further protect critical areas through current water quality control regulations.

The current project is vested to prior critical areas ordinances. There have been subsequent revisions to KCC Title 19 Critical Areas Ordinance (CAO), with the current ordinance's effective date of 2017 (with small-scope amendments since). It is noteworthy that stream buffers would remain unchanged through today's code. However, applying the current CAO could impact wetlands and lot-count or lot layout due to greater buffers. DCD has not analyzed the current CAO's impact in detail; however, likely we would see greater wetland buffers in certain areas of the project.

Alternative 3: Denial of Requested Amendment

Without a DA, the developer can rely on the preliminary plat which has already been approved, as well as a full range of residential uses allowed in the UCR zone (eg, multi-family, single family detached and attached, cottage, duplex, manufactured homes). For residential development the UCR zone allows a density range of 5 to 9 dwelling per acre for the 360 acres, subject to minimum density requirements. The developers could contemplate other commercial, recreational, and institutional uses allowed or conditionally allowed in UCR, including land-intensive indoor and outdoor storage yards. Denial would potentially allow the developer to amend plat phases—so long as code is met—to increase density with single-family or multi-family units beyond the currently approved 751 units, under the density range noted above.

If a DA is not workable, the developer has indicated they will not dedicate the 104 acres that are within the 'Greenway' conservation easement to Kitsap County Parks. The open space tract would instead be managed by the property owners within the Homeowners' Association (HOA). Whether the HOA would ultimately allow public access and completion of trail connections to the future regional trail with the North Kitsap Heritage Park is

unknown (Section-8 Public Access of Conservation Easement). Without the 'Greenway' dedication, the amount of Park impact fees would have to be reconsidered.

9. Current Criteria for DA Extension

6.1 Term. The Term of this Agreement shall continue for maximum of (15) years, which term may be extended for (1) additional five (5) year period as follows:

- (a) If OPG (or Successor owner(s)) which own divisions or lots in the Project that contain 51% of the of the residential units completed or with issued building permits, but that additional time is needed to complete buildout of Project.

Applicant Response: Notwithstanding diligence by Taylor Morrison and Pulte to obtain the necessary Implementing Approvals to construct at least 51% of the homes in the Project by February 8, 2025, the County will have not had sufficient time to issue those approvals to reach this stage. By the time the Development Agreement is currently set to expire, Pulte will have completed development of 99 of 163 lots within the Phase 1 Final and constructed a portion of the internal Spine Road A (Plat (*sic*) (approvals required to construct the remaining lots in Phase 1 cannot be issued until resolution of the CABR appeal). Taylor Morrison and Pulte are still waiting for issuance of all other Implementing Approvals from the County that will allow it to request Final Plat for the remaining phases of Arborwood, dedicate the 104-acre Greenway to the County, and construct residential units within the approved lots on the phases.

- (b) At the County's discretion. The Board of County Commissioners, per Kitsap County Code, has sole discretion to decide in the public's interest.

Upon termination of this Agreement, the Property shall be governed by the adopted County Zoning and related development regulation in effect at the time of termination.

10. Recommendation

The are no recommendations from the Department at this time. This staff report is for informational purposes for the Board of County Commissioner public hearing and deliberation.

Report prepared by



Jeff Smith, Senior Planner and Project Lead

1/21/2025

Date

Report approved by



Darren Gurnee, Planning Supervisor

1/21/2025

Date

Attachments

- A: 2024 Arborwood Applicant-Propose Amended Development Agreement (DA) and Narrative
- B: Applicant Plan and Plat Map
- C: County Maps: Vicinity, Imagery, Zoning Critical Areas
- D: Phasing Map
- E: Vested Development Table
- F: 2010 – 2025 Development Agreement
- G: SEPA Determination
- H: Development Agreement Attachment – H Summary of Trail Ownership

Attachment A

**(B) SUPPLEMENTAL APPLICATION FOR
FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN KITSAP COUNTY, TAYLOR MORRISON, AND PULTE**

1. Background Narrative

Arborwood Entitlement Process: 1993-2010

The entitlement history of Arborwood dates back 30 years. Arborwood (formerly named Applewood) was first proposed in the 1990s by Olympic Property Group (“OPG”) on timberlands owned by Pope Resources. OPG initially conceived of Applewood/Arborwood as a 766-lot residential development with a golf course on a 722-acre site. OPG subsequently scaled back the land area, thereby increasing its density. Ultimately, the County Commissioners issued multiple approvals authorizing Arborwood as a 751-lot residential development on an approximately 360-acre site (“Property”).

Over two decades, the County has conducted extensive phased SEPA review of Arborwood. In 1993, the County published the Applewood/Arborwood Draft Environmental Statement (“EIS”), followed by a final EIS in 1994, and a SEPA addendum in 1996 to reflect a modified proposal that deleted the golf course element. In 2002 and 2003, a Supplemental EIS for the Kingston Sub-Area Plan (“Sub-Area Plan”) analyzed inclusion of approximately half the original Applewood/Arborwood project site into the urban growth area (“UGA”) for Kingston while allowing approximately the same number of residential lots within the urban growth boundary. On July 23, 2009, referencing these prior EIS’s, the County issued a mitigated determination of nonsignificance (“MDNS”) for the Arborwood preliminary plat/performance-based development of 751 residences with a mix of single-family homes along with duplexes, townhomes, and approximately 20,000 square feet of retail space (“Preliminary Plat”).

As a condition of development within the Kingston UGA, the County Commissioners required a Development Agreement for Arborwood. In 2005, the County Commissioners adopted Ordinance No. 352-2005, amending the Sub-Area Plan and updating the UGA to include the Property under Urban Cluster Residential (“UCR”) zoning. Ordinance No. 352-2005 required a Development Agreement be executed by the County and OPG for the Property to establish development standards, an initial vesting period, and terms governing dedication of 104-acres to the County for public use.

The County approved the Preliminary Plat and Development Agreement for Arborwood, respectively, in 2009 and 2010. On October 28, 2009, following a one-day hearing, the County Hearing Examiner recommended approval of the Preliminary Plat (see [Attachment F](#)). The project described in the Preliminary Plat (“Project”) was anticipated to be constructed in phases, extend a regional trail system, result in construction of a roundabout at South Kingston Road NE, and include off-site improvements at SR-104 and NE West Kingston Road and South Kingston Intersection.

Also on October 28, 2009, following a separate one-day hearing, the County Hearing Examiner issued a decision recommending approval of a proposed Development Agreement to govern the

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Arborwood Preliminary Plat (see Attachment E). The County Commissioners and OPG subsequently entered into a Development Agreement, effective February 8, 2010 (“Agreement” or “Development Agreement”) (see Attachment D).

The Development Agreement establishes the following:

- The Property, as specified in the Preliminary Plat, must be developed consistent with the UCR zone except as modified in the Development Agreement. Modifications in the Development Agreement to the UCR zoning regulations limit the amount of commercial or retail use allowed on the Property.
- The Project must comply with applicable road standards and standards for access, circulation and parking, as well as traffic conditions from the Preliminary Plat approval.
- Development in the Project must be served by public water and sanitary sewer.
- The Project must comply with the applicable stormwater code and manual and evaluate the potential of low impact stormwater management methods.
- A conservation easement over a “Greenway” area containing at least 104 acres must be established upon issuance of the first Site Development Activity Permit (“SDAP”) for the Project. Dedication of the “Greenway” area to the County will occur upon recording of the Final Plat, or at an early time that the OPG and County determine the Greenway boundaries are final.
- Dedication of a public trail link, consisting of a 10-foot-wide paved pedestrian and bicycle path adjacent to the internal spine road and located within public right of way.
- The Project must be developed to level of service standards for roads, water, sewer, police, fire, parks/open space, schools and other capital facilities and services.
- The Project must pay applicable impact fees, subject to credit for dedication of the Greenway.
- The Project must comply with mitigation measures set forth in the project-level SEPA documentation, including the MDNS for the Preliminary Plat, including specified traffic improvements and increased capacity of a stormwater pond serving the Grover’s Creek basin.
- Development of the Project will be vested to specified Project Elements and Development Standards in effect on March 26, 2008.
- The term of the Development Agreement shall be 15 years, which may be extended for an additional 5-year period (a) if OPG (or its successors) give notice that at least 51% of the residential units are completed or have issued building permits but additional time is needed to complete buildout of the Project, or (b) at the County’s discretion. The Agreement currently expires on February 8, 2025.
- Minor modifications to the Project or Development Standards may be administratively approved by the Department of Community Development.

Arborwood Entitlement Process under the Development Agreement: 2010-2024

OPG owned the Property for 10 years following approval of the Development Agreement. However, two significant economic hurdles prevented OPG from initiating development of the Project during much of that decade. First, by the time the Development Agreement was approved

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by the County, the economic recession triggered by the home mortgage crisis was in full swing. The recession significantly depressed the housing market for the first 5 years the Development Agreement was in effect. Second, growth anticipated in the Kingston UGA did not result in sufficient new housing demand until after Kitsap Transit initiated operation of the Kingston-Seattle fast ferry route in 2017.

On August 13, 2018, OPG submitted a request for minor modification to the Preliminary Plat to modify the phasing plan, street, and lot layout for the first phase of Arborwood construction, in part, due to the discovery of a new wetland (“Minor Amendment #1”). The County conducted SEPA review for Minor Amendment #1 to the Preliminary Plat, issuing an Addendum to the MDNS on November 19, 2019, followed by approval of Minor Amendment #1 on December 30, 2019. On July 23, 2020, OPG applied for an SDAP to construct Phase 1 of Arborwood, which was approved by the County on August 31, 2021.

On August 30, 2021, Taylor Morrison Northwest, LLC (“Taylor Morrison”) and Pulte Homes of Washington, Inc. (“Pulte”) acquired the Property and all entitlements for the Project from OPG. Both Taylor Morrison and Pulte are national homebuilders with a significant local presence in the Pacific Northwest. Pulte acquired the south portion of Arborwood (Phases 1, 2, 3, and 6 South under the current phasing plan). Taylor Morrison acquired the north portion of Arborwood (Phases 4, 5, and 6 North under the current phasing plan). Taylor Morrison and Pulte anticipated at least 51% of the units could be constructed or otherwise have certificates of occupancy approved prior to the expiration of the initial 15-year term Development Agreement. Following acquisition of the Property, Pulte immediately began constructing plat infrastructure for Phase 1 under the SDAP issued to OPG.

Within three months of acquiring the Property, Taylor Morrison and Pulte initiated applications necessary to construct the rest of the phases to stay ahead of the Development Agreement termination date. On November 12, 2021, Taylor Morrison and Pulte submitted a joint application to the County for additional minor modifications to the Preliminary Plat, for Phases 2, 4, and 5, and also to relocate the proposed commercial use, amend the phasing plan (to the current shown in Attachment G), and administratively modify the Greenway boundary as allowed under the Development Agreement (“Minor Amendment #2”). Within the next six months, Taylor Morrison and Pulte separately submitted multiple applications for early clear and grade permits (“ECG”) and SDAPs for Phases 2, 4, and 5. On April 17, 2023, the County approved Minor Amendment #2 to the Preliminary Plat, a condition of which required Taylor Morrison to apply for separate approval of critical area buffer modifications (“CABR”) prior to issuance of any ECGs or SDAPs. The County also completed SEPA review for Minor Amendment #2, issuing an Addendum to the MDNS.

Following approval of Minor Amendment #2 on Phases 2, 4, and 5, Taylor Morrison and Pulte began submitting for necessary Implementing Approvals¹ on the remaining Phases 3 and 6 North

¹ Implementing Approvals are defined in Section 6.2.1 of the Development Agreement as “applications submitted after adoption of the Agreement for land use approvals, entitlements, and permits which implement phasing and subsequent approvals for the Project, including but not limited to the Plat and all Phases, permits for grading, site development and infrastructure approvals.”

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and 6 South of the Preliminary Plat. On April 26, 2023, Taylor Morrison and Pulte submitted a joint application to the County for the third minor modification to the Preliminary Plat (“Minor Amendment #3”). Notice of Complete Application was issued on November 7, 2023 for Minor Amendment #3. Taylor Morrison and Pulte anticipated submitting applications for the final SDAPs for Phase 3 and Phase 6 North and 6 South once DCD staff provide sufficient feedback on Minor Amendment #3 to the Preliminary Plat.

However, based on permit processing timelines between 2021 and 2023, Taylor Morrison and Pulte became concerned they may not be able to obtain all necessary Implementing Approvals to apply for a Final Plat on each Project phase, and in turn, construct 51% of the units by February 8, 2025. As reported by DCD staff to Taylor Morrison and Pulte, delayed processing of minor plat amendments, ECGs, and SDAPs for Arborwood have been due to the County being short-staffed or otherwise experiencing unusual high-volume workloads. Initially, the County engaged a third-party reviewer to conduct some of the application reviews, but the County ended that arrangement once County was fully staffed.² In 2023, both developers reached out to Director Rimack of DCD to discuss concerns with delayed processing of the Implementing Approvals for Arborwood and possible extension of the Development Agreement. At the time, Director Rimack stated that it was too soon to discuss extension of the Development Agreement given that DCD was fully staffed and could catch up.

Since July 2023, the County has been unable to advance any required Implementing Approvals for Phases 4, 5, or 6 of the Project. In the summer of 2023, several permit approvals on unrelated developments were appealed to the County’s Hearing Examiner, one of those challenging the CABR issued to Taylor Morrison. DCD staff informed Taylor Morrison they could not process any Implementing Approvals for Phases 4, 5, or 6 until resolution of the appeal. Additionally, those unrelated appeals significantly slowed down processing time on Pulte’s applications for Phases 2 and 3. According to DCD staff, the administrative appeals eclipsed staff time to process Pulte’s applications.

Multiple administrative appeals of Taylor Morrison’s CABR have resulted in a nearly 18-month delay in advancing any progress on Phases 4, 5, or 6. The first appeal spanned between July 17, 2023 and February 28, 2024. With limited exception, that appeal was denied. Between March 1, 2024 and May 22, 2024, DCD staff conducted further review of the limited issues remanded by the Hearing Examiner and then re-issued a decision approving the CABR. However, that re-issued CABR was again appealed on June 5, 2024. The appeal hearing is scheduled before the County’s Hearing Examiner the week of October 7, 2024. A final decision by the Hearing Examiner is not anticipated before November 2024.

Additionally, on July 31, 2024, DCD staff informed Taylor Morrison and Pulte that the County could not conduct further review of Minor Amendment #3 concerning Phases 3 and 6 until a final decision is rendered in the CABR appeal. In short, the County is unable to further review any required Implementing Approvals on Phases 3 through 6 of the Project until a final decision is issued on the CABR appeal toward the end of 2024.

² On at least one application, comments by the third-party reviewer were never received by Taylor Morrison notwithstanding that staff reported the application was under review by the third-party.

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Notwithstanding diligence by Taylor Morrison and Pulte to obtain the necessary Implementing Approvals to construct at least 51% of the homes in the Project by February 8, 2025, the County will have not had sufficient time to issue those approvals to reach this stage. By the time the Development Agreement is currently set to expire, Pulte will have completed development of 99 of 163 lots within the Phase 1 Final and constructed a portion of the internal Spine Road A (Plat (approvals required to construct the remaining lots in Phase 1 cannot be issued until resolution of the CABR appeal). Taylor Morrison and Pulte are still waiting for issuance of all other Implementing Approvals from the County that will allow it to request Final Plat for the remaining phases of Arborwood, dedicate the 104-acre Greenway to the County, and construct residential units within the approved lots on the phases.

2. Description of Proposed First Amendment to the Development Agreement

Taylor Morrison and Pulte’s proposed First Amendment to the Development Agreement (Attachment C) consists of the two substantive changes, as further specified below:

Change 1: Substitution of Taylor Morrison and Pulte for OPG as parties to the Agreement.

To recognize Taylor Morrison and Pulte as successors and assigns of OPG under the Agreement, the proposed First Amendment includes the following two terms:

1. **Parties:** Taylor Morrison and Pulte, as successors and assigns of OPG to the Property, are acknowledged as parties to the Agreement. All references to “OPG” in the Agreement shall refer to Taylor Morrison and Pulte.
2. **Notices:** Section 8.4 of the Agreement is hereby amended to modify notices to the parties, with deleted text shown below in strikethrough and added text shown below in bold underline:

All communications, notices, and demands of any kind which a party under this Agreement requires or desires to give to any other party shall be in writing and either (a) delivered personally (including delivery by professional courier services), (b) sent by facsimile transmission with an additional copy mailed first class, or (c) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, to the addresses set forth with each signature. Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered 48 hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given. Notices shall be directed to the Director of Kitsap County Department of Community Development for the County and ~~Jon Rose for OPG~~ **Pete Lymberis for Taylor Morrison and Ryan Stokes for Pulte.**

Change 2: Extend the Term by Five (5) Years, Subject to Certain Conditions

(2) SUPPLEMENTAL APPLICATION FOR
FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN KITSAP COUNTY, TAYLOR MORRISON, AND PULTE

To allow Taylor Morrison and Pulte additional time to complete permitting and construction of Arborwood, and with recognition that certain permitting delays are not within either Taylor Morrison and Pulte control, the proposed First Amendment includes the following modification to the term of the Agreement:

3. **Term:** Section 6.1 of the Agreement is hereby amended to modify the term of the Agreement, with deleted text shown below in strikethrough and added text shown below in bold underline:

The term of this Agreement shall continue for a maximum of ~~fifteen (15)~~ **twenty (20)** years, which term may be extended for one (1) additional five (5) year period as follows: (a) if OPG (or successor owner(s) which own divisions or lots in the Project that contain at least 51% of the unbuilt dwelling units) gives notice to the County stating that substantial development has occurred, with at least 51% of the residential units completed or with issued building permits **lots approved through final plat**, but that additional time is needed to complete the buildout of Project; **(b) if the County is unable to review and issue a final decision on all Implementing Approvals specified in the timeline set forth in Exhibit J, or** ~~(b)(c)~~ at the County's discretion. **Furthermore, the term of this Agreement shall be automatically extended for the equivalent time in which Implementing Approvals could not be reviewed or issued by the County due to the pendency of administrative or judicial appeals or other legal actions concerning any such Implementing Approvals.** Upon termination of this Agreement, the Property shall be governed by the adopted County zoning and related development regulations in effect at the time of termination.

Extending the term of the Development Agreement will allow sufficient time for the parties to fulfill the intent of the Agreement. As set forth in the recitals, the Development Agreement “will eliminate uncertainty in long-term planning, provide for the orderly development of the Project on a comprehensive basis consistent with the Growth Management Act, provide for services appropriate for development of the Project and effectively utilize resources within the County.” Additionally, as recognized by the County in 2005, the Development Agreement is necessary to achieve the public benefit of significantly expanding County parkland through dedication of the 104-acre Greenway after Final Plat approval for Arborwood.

Conditions to further lengthen the term of the Development Agreement will provide the County, Taylor Morrison, and Pulte with continued certainty of accomplishing these goals, particularly if permitting delays continue. Furthermore, extending the term commensurate to the time that processing and issuance of Implementing Approvals is halted due to litigation is consistent with analogous permitting regulations which toll the expiration date of permits during pendency of appeals.

Should the Development Agreement not be extended, Taylor Morrison and Pulte would not abandon completion of the Project. The most recent projected 20-year population growth for the Kingston UGA demonstrate ongoing need for these 751 residential housing units. Moreover, both

(2) SUPPLEMENTAL APPLICATION FOR
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companies have significantly invested in the development of Arborwood and remain committed to see its completion. However, expiration of the Agreement prior to reaching Final Plat for Phases 2 through 6 would mean that the obligation to dedicate the Greenway to the County would terminate.

3. Consistency of First Amendment to Development Agreement with KCC 21.04.220.D

Section 21.04.220.D. KCC establishes that the Board of Commissioners may adopt a development agreement by resolution based on certain findings. Each of the required findings under KCC 21.04.220.D. are demonstrated for the proposed Amendment to the Development Agreement as follows:

1. The proposed agreement is consistent with the goals and policies of the Comprehensive Plan.

As set forth in the Recitals to the Development Agreement for Arborwood, the County determined that the Agreement would provide for orderly development of the Project on a comprehensive basis consistent with the Growth Management Act, provide for services appropriate for development of the Project, and effectively utilize resources within the County. Additionally, the County determined the Development Agreement implements and fulfills the requirement of Ordinance 352-2005 for a development agreement required to commence development of the Property.

The proposed Amendment to the Development Agreement does not incorporate any substantive changes to the Project. Moreover, both the Development Agreement and proposed First Amendment are consistent with numerous goals and polices of the Comprehensive Plan, including but not limited to the following:

Land Use Goal 3. Support more dense residential areas with access to transportation, urban amenities, goods and services, physical activity and healthy foods.

The Development Agreement is consistent with Land Use Goal 3 because Arborwood is being established at urban densities and is located within the Kingston UGA, with sufficient access to transportation, urban amenities, physical activity and healthy foods.

Land Use Policy 16. Promote housing preservation and development in areas that are already well- served by schools, public transportation and commercial facilities, and have adequate infrastructure to support alternative modes of transportation.

The Development Agreement is consistent with Land Use Policy 16 by promoting residential development within an area of the Kingston UGA that is well-served by North Kitsap School District, located adjacent to the Kingston Transit Ride Service Area, and within 3 miles of the Kingston Ferry terminal.

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BETWEEN KITSAP COUNTY, TAYLOR MORRISON, AND PULTE

Land Use Goal 6. Direct development to designated Urban Growth Areas consistent with projected population growth, Growth Management Act and Countywide Planning Policies while considering development patterns that reduce sprawl, use urban land more efficiently, and that incorporate feasible, innovative and sustainable practices.

The Development Agreement is consistent with Land Use Goal 6 in that Arborwood provides residential development within the Kingston UGA consistent with projected population growth, the GMA, and Countywide Planning Policies. The County's most recent buildable land analysis for the Kingston UGA anticipates that even with the 751 units to be built at Arborwood, under the 2016 Comprehensive Plan, additional capacity is needed in the Kingston UGA to meet 2044 growth projections.

Land Use Policy 29. Through application of Growth Management Act goals, increase density in urban areas and limit sprawl in rural lands.

The Development Agreement is consistent with Land Use Policy 29 in that proposed densities for Arborwood are consistent with minimum densities for the UCR zone.

Parks Goal 1. Provide regional parks, and open space to meet active and passive regional recreational needs, as well as the needs of wildlife. Parks Policy 1. Continue acquisition of lands having characteristics providing opportunities for varied uses.

The Development Agreement is consistent with Parks Goal 1 by expressly provides for County acquisition of 104-acres of a "Greenway" area upon recording of the final plat for Arborwood. Under the Agreement, the Greenway area is already benefitted by a recorded conservation easement that allows for installation of facilities for trails and open space corridors.

Parks Policy 11. Support development of a regional trail system throughout the County and recognize that trails, when built, must be sensitive to impact on natural environment.

The Development Agreement is consistent with Parks 11 in that the Agreement calls for the establishment of a regional public trail link along the internal spine road will be part of the dedicated road right of way to the County. When completed, this trail will be owned and maintained by the County.

2. The proposed agreement is consistent with the local development regulations; provided, that standards may be modified only if the board makes further findings that:

a. Variation of the standard provides a public benefit; and

(2) SUPPLEMENTAL APPLICATION FOR
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- b. The proposal subject to the modified standard remains consistent with the Comprehensive Plan; and*
- c. All adverse impacts are mitigated.*

Section 2.1 of the Development Agreement requires Arborwood to be developed consistent with the County's UCR zone in effect on March 26, 2008 (“Vested Code”), except as modified within the Agreement (“Development Standards”). The only modifications to the Vested Code included in the Development Standards were to restrict commercial or retail uses that were otherwise allowed under the Vested Code.

The proposed Amendment to the Development Agreement does not include substantive changes to the Development Standards. The Agreement, as amended, is consistent with local development regulations.

3. The proposed agreement provides for adequate mitigation of adverse environmental impacts; provided, that if the development is not defined at the project level, the agreement shall provide a process for evaluating and appropriately mitigating such impacts at the time of project development.

The Development Agreement documented adequate mitigation of adverse environmental impacts from Arborwood as follows:

- Section 3 of the Agreement identifies environmental review under SEPA for Arborwood, completed at the non-project and at the project level between 1993 and 2009.
- Section 4 of the Agreement identifies mitigation measures identified in the project-level SEPA documentation (MDNS) for the Preliminary Plat were determined to address and avoid significant adverse environmental impacts of Arborwood.
- Section 5 of the Agreement requires OPG (now Taylor Morrison and Pulte) to implement all mitigation measures specified in the MDNS for the Preliminary Plat.
- Attachment C to the Agreement describes the SEPA process for Implementing Approvals, which includes that Implementing Approvals within the Project Envelope³ do not require further SEPA review, and Implementing Approvals that exceed the Project Envelope do not require further SEPA review.

Since adoption of the Development Agreement, the County reviewed two different minor amendments to the Preliminary Plat. On November 15, 2019 and March 7, 2023, for each respective minor plat modification, the County issued a SEPA addendum to reflect the proposed changes and conclude that all modifications were within the range of alternatives and environmental impacts previously analyzed in the MDNS for the Preliminary Plat.

³ Project Envelope is defined as “the maximum allowable Project densities and uses described in Section 2.1 of the Agreement.”

(2) SUPPLEMENTAL APPLICATION FOR
FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN KITSAP COUNTY, TAYLOR MORRISON, AND PULTE

The proposed Amendment to the Development Agreement does not include any substantive changes to the Project Envelope described in the Agreement or to the Project previously reviewed under SEPA. The Agreement, as amended, provides for adequate mitigation of adverse environmental impacts.

4. The proposed agreement reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Section 6.2.6 of the Development Agreement states as follows:

6.2.6 County's Reserved Authority. In accordance with Development Agreement Statute, RCW 36.70B.170(4), the County reserves the authority to impose new or different Development Standards to the extent required to prevent a serious threat to public health and safety.

The proposed Amendment to the Development Agreement does not change to Section 6.2.6. The Agreement, as amended, would continue to reserve the authority to the County to impose new or different regulations to the extent required by a serious threat to public health and safety.

Attachment B

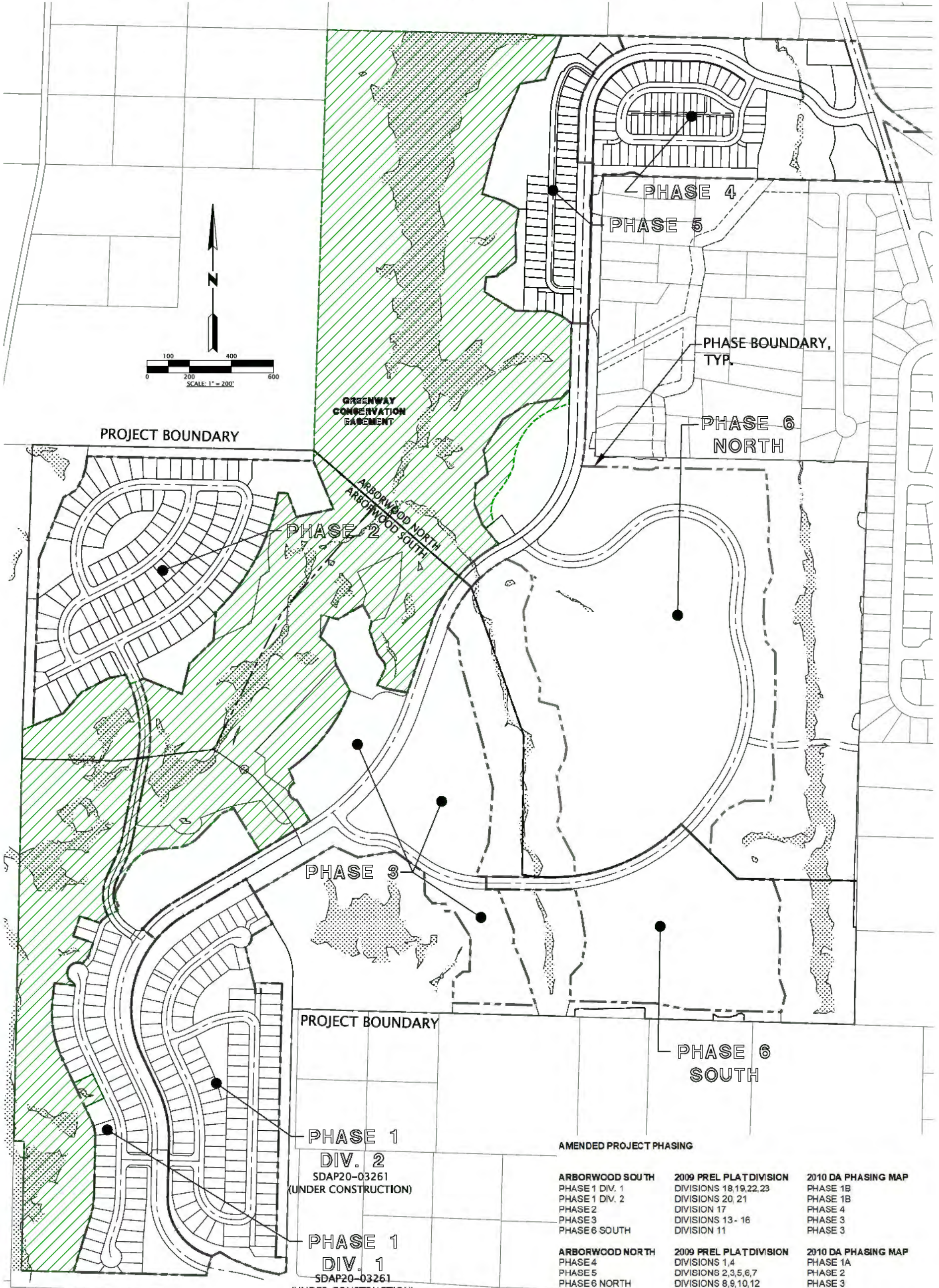
October 28, 2009
 Preliminary Approved Plat Map and Site Plan



ARBORWOOD Kingston, Wa.



N 1/2, NW 1/4; SE 1/4, NW 1/4; NW 1/4, NE 1/4 OF SECTION 2, TOWNSHIP 26 N, RANGE 2 E, W.M.
 AND SE 1/4, NW 1/4; SW 1/4, NE 1/4; GOV'T LOT 2; NE 1/4, SW 1/4; S 1/2, SW 1/4; SW 1/4, SE 1/4 OF SECTION 35, TOWNSHIP 27 N, RANGE 2 E, W.M.,
 KITSAP COUNTY, WASHINGTON



PHASE 1 DIV. 2
 SDAP20-03261
 (UNDER CONSTRUCTION)

PHASE 1 DIV. 1
 SDAP20-03261
 (UNDER CONSTRUCTION)

AMENDED PROJECT PHASING		
ARBORWOOD SOUTH	2009 PREL PLAT DIVISION	2010 DA PHASING MAP
PHASE 1 DIV. 1	DIVISIONS 18,19,22,23	PHASE 1B
PHASE 1 DIV. 2	DIVISIONS 20, 21	PHASE 1B
PHASE 2	DIVISION 17	PHASE 4
PHASE 3	DIVISIONS 13- 16	PHASE 3
PHASE 6 SOUTH	DIVISION 11	PHASE 3
ARBORWOOD NORTH	2009 PREL PLAT DIVISION	2010 DA PHASING MAP
PHASE 4	DIVISIONS 1,4	PHASE 1A
PHASE 5	DIVISIONS 2,3,5,6,7	PHASE 2
PHASE 6 NORTH	DIVISIONS 8,9,10,12	PHASE 3

PRINTED: 2022-02-04

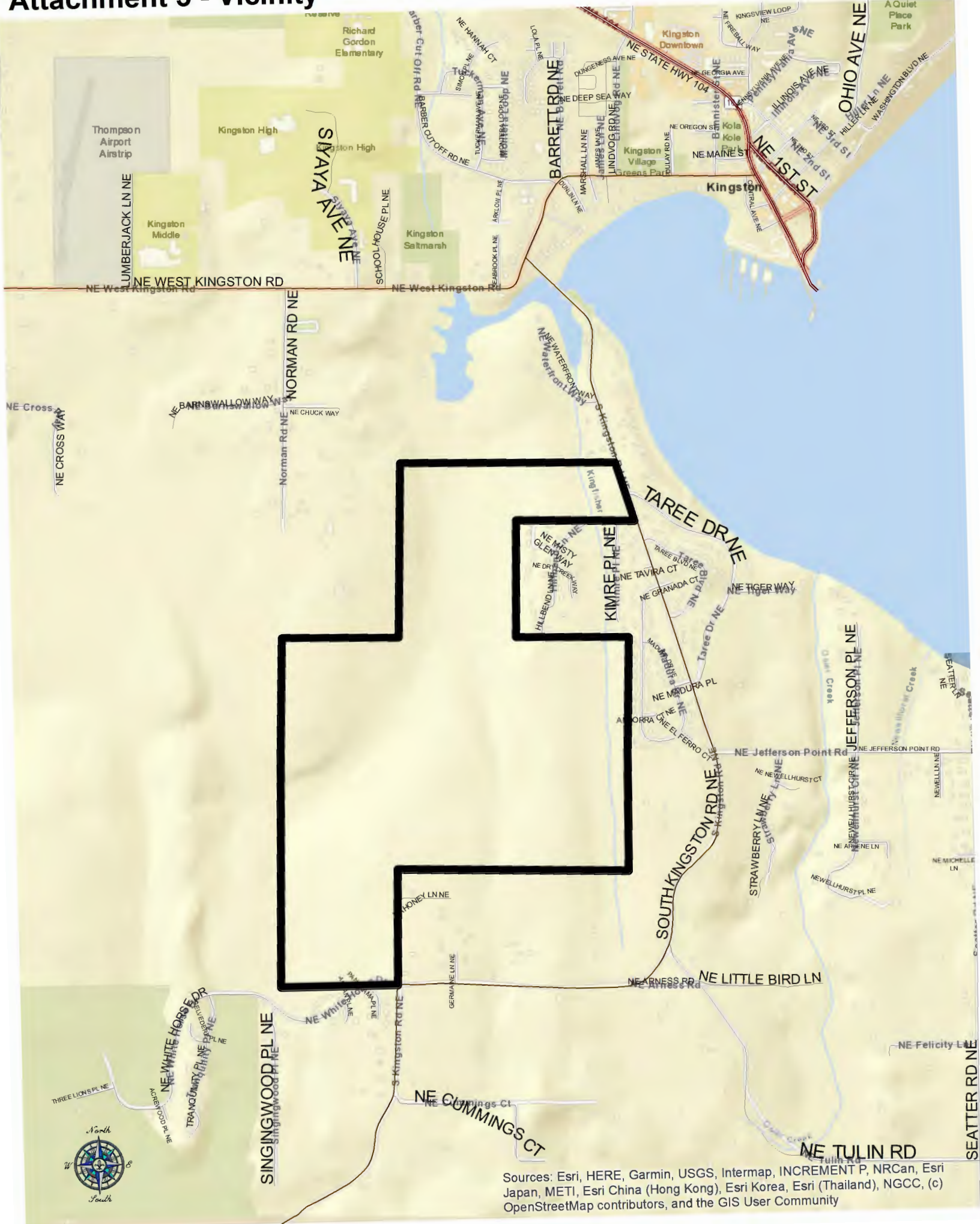


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PULTE HOMES OF WASHINGTON, INC. ARBORWOOD PRELIMINARY PLAT MINOR AMENDMENT # 2 PHASING PLAN ARBORWOOD KINGSTON, KITSAP COUNTY WASHINGTON	JOB NO. 21032 SHEET ATTACH. 3
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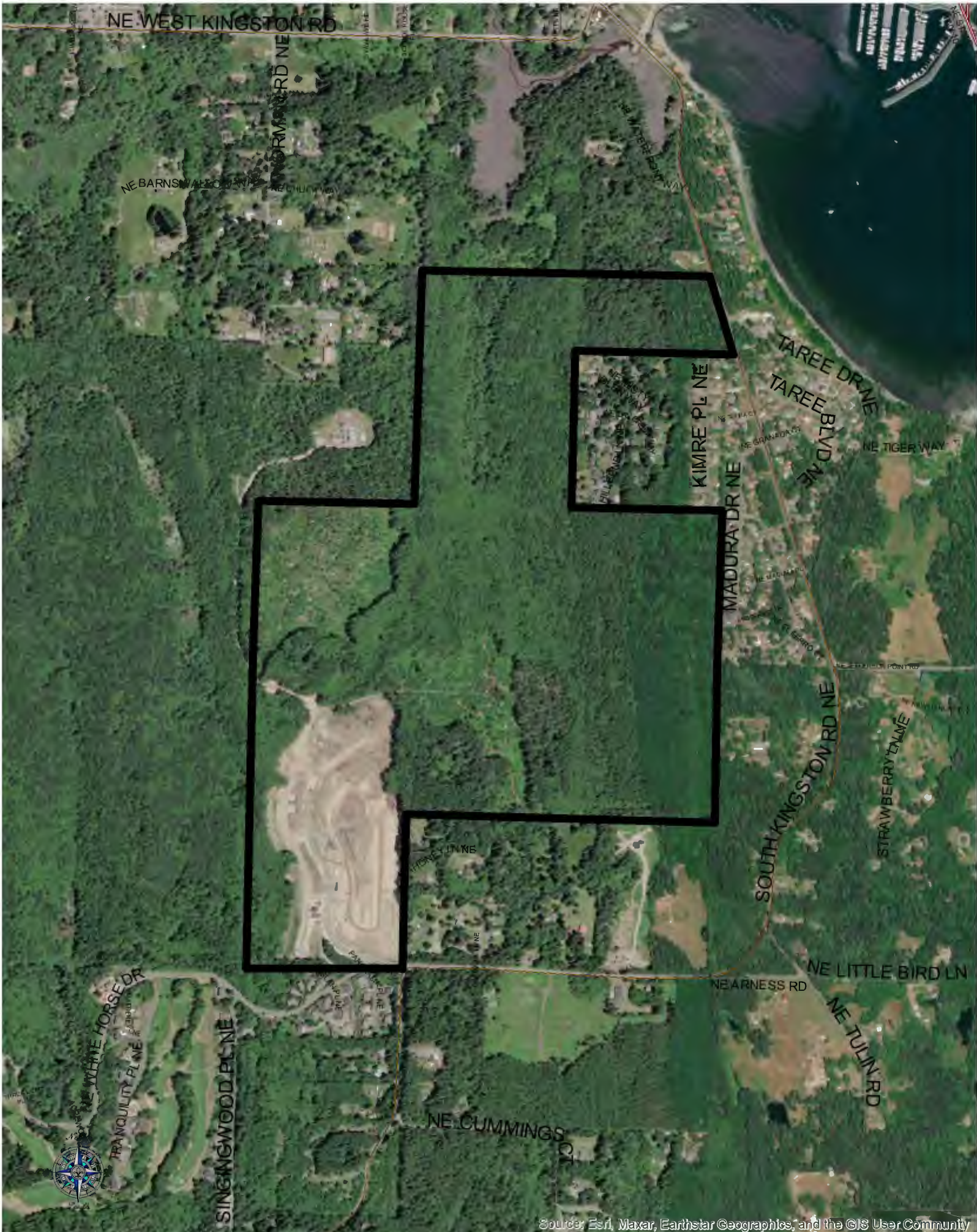
Attachment C

Attachment 3 - Vicinity

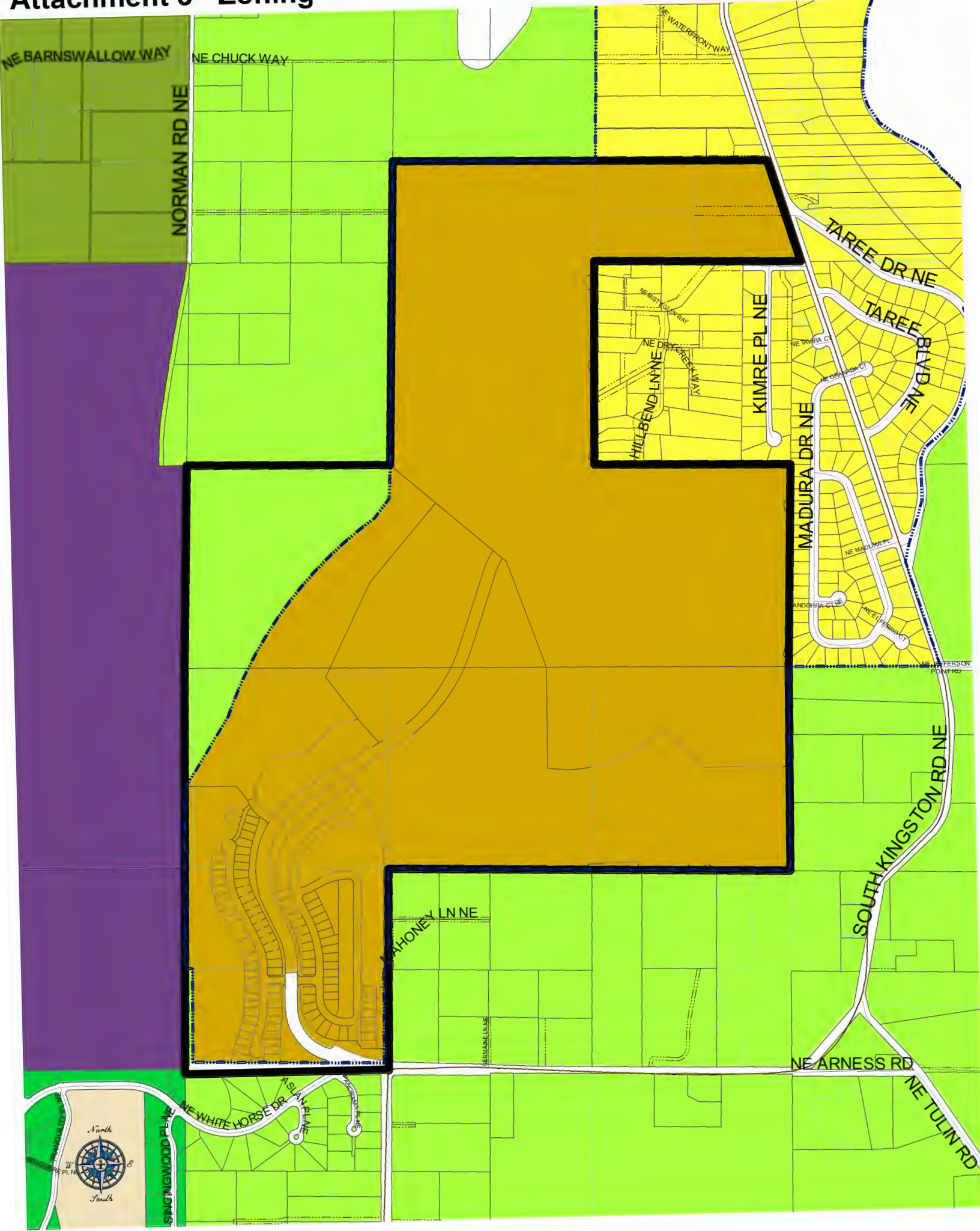


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

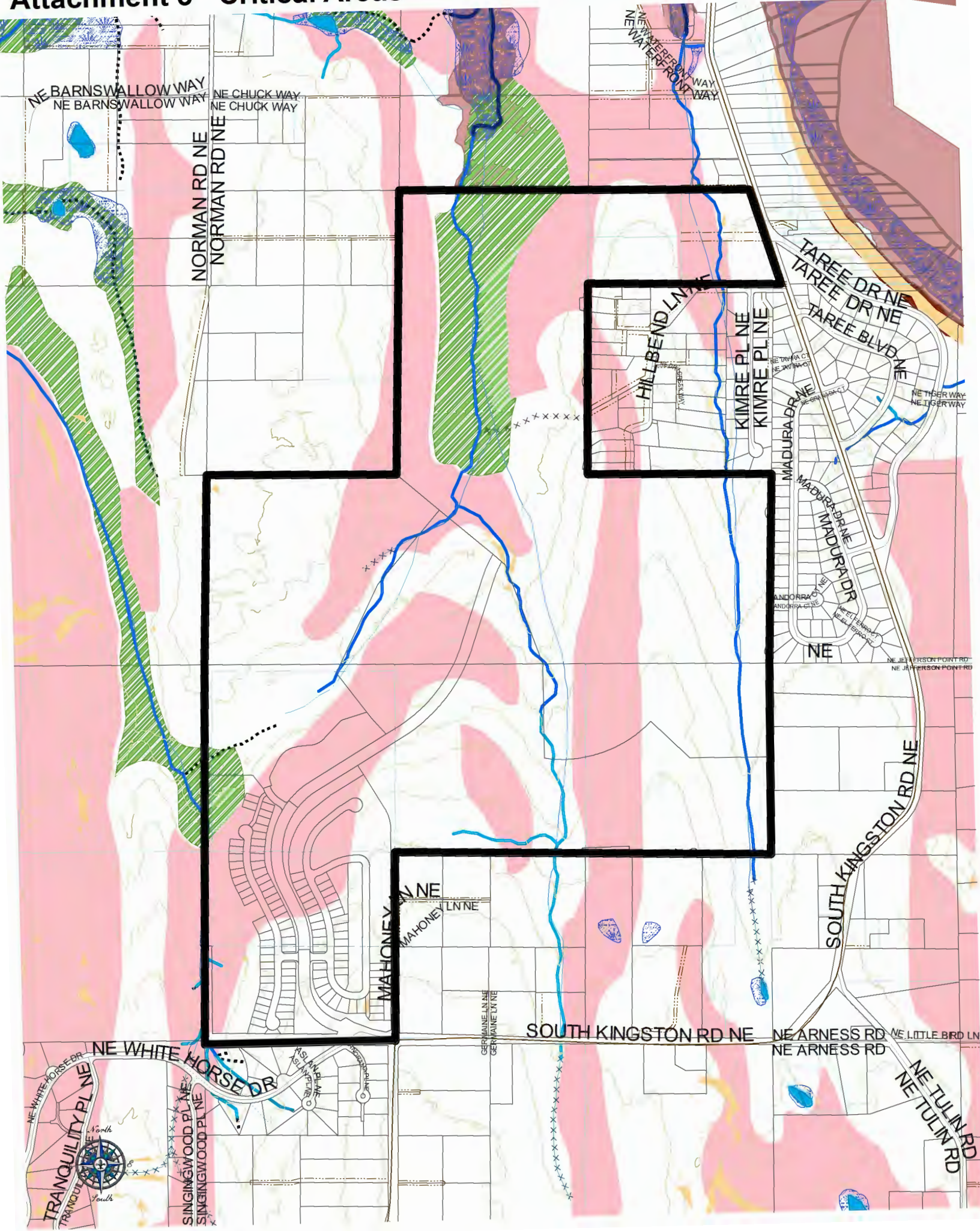
Attachment 3 - Imagery



Attachment 3 - Zoning

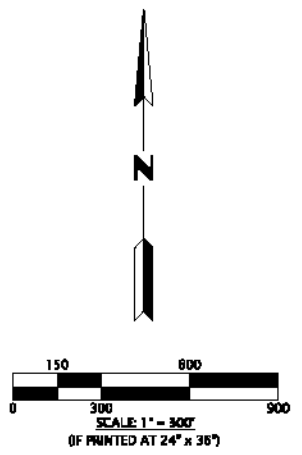
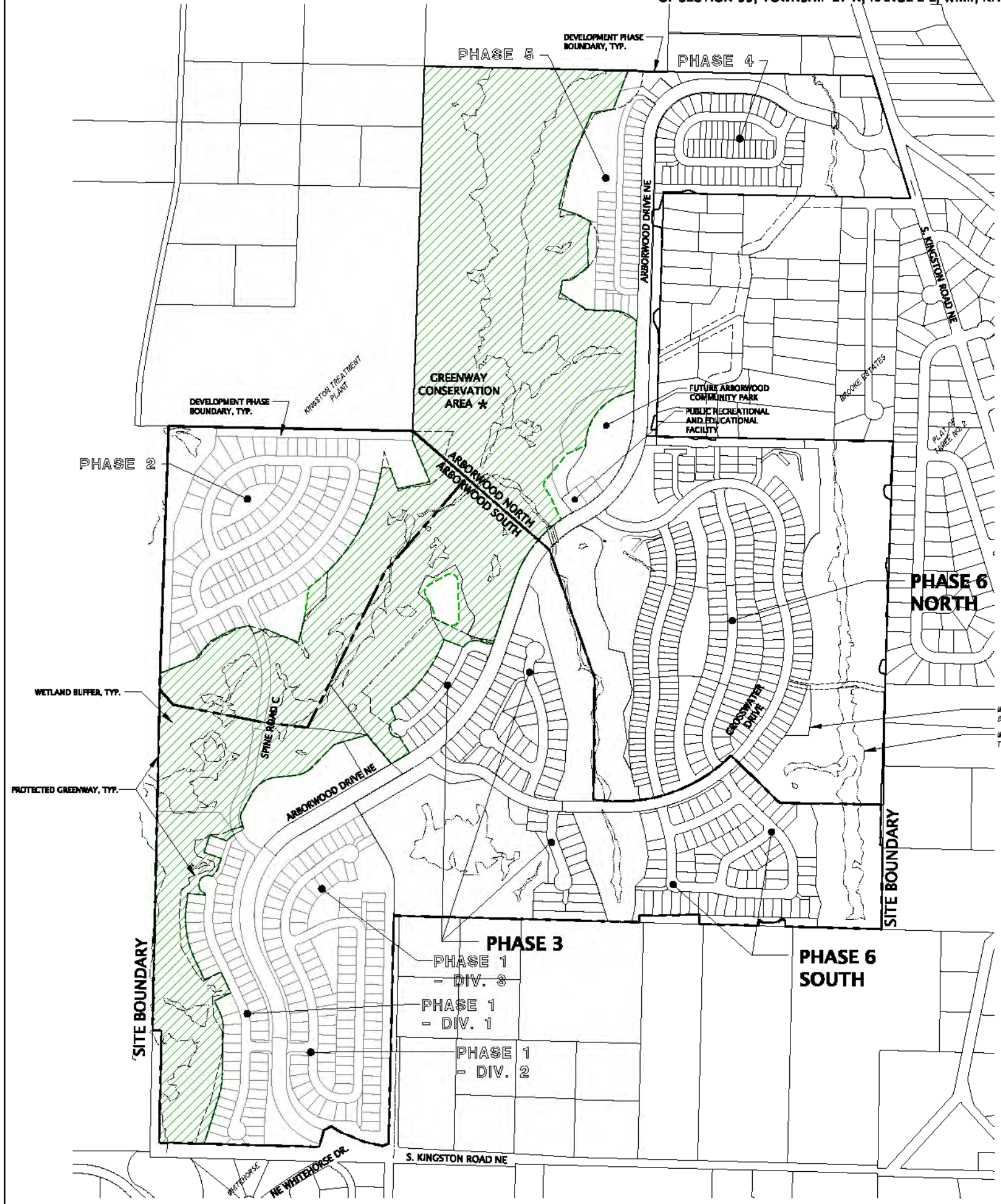


Attachment 3 - Critical Areas



Attachment D

NE 1/4, NW 1/4; NW 1/4, NE 1/4 OF SECTION 2, TOWNSHIP 26 N, RANGE 2 E, W.M.
AND GOVT LOT 2; SE 1/4, NW 1/4; SW 1/4, NE 1/4; NE 1/4, SW 1/4; SE 1/4, SW 1/4; SW 1/4, SE 1/4
OF SECTION 35, TOWNSHIP 27 N, RANGE 2 E, W.M., KITSAP COUNTY, WASHINGTON



ARBORWOOD PRELIMINARY PLAT MINOR AMENDMENT #3
OPEN SPACE AND RECREATIONAL OPEN SPACE

OPEN SPACE MINIMUM REQUIREMENTS

	ARBORWOOD NORTH	ARBORWOOD SOUTH
COMMON OPEN SPACE (MIN. 15% GROSS SITE AREA)	53.99 AC.	
RECREATIONAL OPEN SPACE (5% DEVELOPABLE AREA) (LESS 3.0 AC. REGIONAL / CONNECTOR TRAIL)	10.46 AC.	
	7.46 AC.	4.10 AC.

OPEN SPACE PROVIDED / PROPOSED PER PRELIMINARY PLAT MINOR AMENDMENT #3

	ARBORWOOD NORTH	ARBORWOOD SOUTH
COMMON OPEN SPACE (MIN. 15% GROSS SITE AREA)	150.69 AC.	
RECREATIONAL OPEN SPACE	15.19 AC.	8.59 AC.

GREENWAY CONSERVATION AREA UPDATE

RECORDED GREENWAY EASEMENT AREA	4,618,961 SF	106.04 AC.
AREA ADDED TO GREENWAY WITHIN ARBORWOOD SOUTH (PHASE 1 - DIVISION 1)	64,585 SF	1.48 AC.
TOTAL REVISED GREENWAY AREA WITH PHASE 1 - DIVISION 1 FINAL PLAT RECORDING	74,923 SF	107.52 AC.

PRELIMINARY PLAT MINOR AMENDMENT #2:

AREA ADDED TO GREENWAY	188,210 SF	4.32 AC.
AREA SUBTRACTED WITH SPINE ROAD A/PHASE 3 POND CONSTRUCTION	38,465 SF	0.88 AC.
AREA SUBTRACTED FROM GREENWAY	172,638 SF	3.96 AC.
TOTAL REVISED GREENWAY AREA AFTER PRELIMINARY PLAT MINOR AMENDMENT # 2	4,660,653 SF	107.00 AC.

PHASES 4 AND 5 MODIFICATION SDAP (ARBORWOOD NORTH)

AREA SUBTRACTED WITH PHASES 4 & 5	33,174 SF	0.76 AC.
TOTAL REVISED GREENWAY AREA AFTER PHASES 4 & 5 (ARBORWOOD NORTH) - PRELIMINARY PLAT MINOR AMENDMENT # 2	4,627,814 SF	106.24 AC.
PRELIMINARY PLAT MINOR AMENDMENT #3: NO CHANGE TO THE GREENWAY AREA		106.24 AC.

TOTAL GREENWAY AREA AFTER PRELIMINARY PLAT MINOR AMENDMENT # 3	4,627,814 SF	106.24 AC.
MINIMUM ARBORWOOD GREENWAY EASEMENT AREA	4,530,240 SF	104.00 AC.

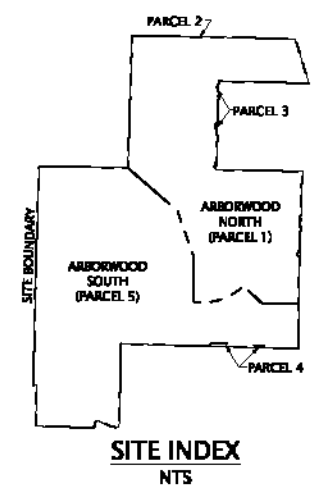
*** GREENWAY CONSERVATION EASEMENT NOTES:**

THE GREENWAY CONSERVATION EASEMENT SHOWN REFLECTS PROPOSED ADJUSTMENTS TO THE BOUNDARIES OF THE RECORDED EASEMENT ALONG THE PERIMETER OF THE DEVELOPMENT PHASES WHICH WILL BE OFFICIALLY MODIFIED WITH THE FINAL PLAT RECORDING OF EACH PHASE.

THE GREENWAY CONSERVATION EASEMENT WAS RECORDED ON AUGUST 23, 2021, PRIOR TO THE ISSUANCE OF THE FIRST SDAP PERMIT UNDER RECORDING # 202108230174 IN ACCORDANCE WITH THE ARBORWOOD PRELIMINARY PLAT CONDITIONS OF APPROVAL (CONDITION 33), AND DEVELOPMENT AGREEMENT SECTION 2.5.

THE RECORDED EASEMENT AREA AND THE PROPOSED ADJUSTMENT ARE A MINIMUM OF 104 ACRES AS REQUIRED BY THE DEVELOPMENT AGREEMENT.

PER THE DEVELOPMENT AGREEMENT, ADJUSTMENTS MAY OCCUR TO THE BOUNDARIES OF THE GREENWAY AND THE ADJACENT DEVELOPMENT AREAS AS FURTHER PLANNING AND SITE DEVELOPMENT OCCUR WITHIN THE ARBORWOOD PROJECT. AREAS REQUIRED FOR PERIMETER BUFFERS, CRITICAL AREAS AND ASSOCIATED BUFFERS ARE INCLUDED WITHIN THE EASEMENT AREA.



ATTACHMENT 4



DATE	
BY	
REVISIONS	
NO.	
DATE	
BY	
DESCRIPTION	

4/21/2023

GOLDSMITH
LAND DEVELOPMENT SERVICES
11400 SE 8th St., Suite 150, Bellevue, WA 98004 | PO Box 1555, Bellevue, WA 98009
TEL: 425.452.1000 | www.goldsmitthome.com

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PRELIMINARY PLAT MINOR AMENDMENT #3
GREENWAY EXHIBIT
ARBORWOOD

WASHINGTON
KITSAP COUNTY

811
Know what's below.
Call before you dig.

JOB NO.: 21032

Attachment E

Arborwood Vesting

Permit #	Projects	Type	Phase	Status	Submitted	Complete	Vested
07-47662	Arborwood-multi-phased Project	P Plat	All	APPROVED	12/31/2007	03/28/2008	Yes
18--04616	Arborwood P-Plat Minor Amend	P PLAT Amend Minor	1A, B	APPROVED	09/18/2018	10/31/2018	Yes
21-05805	Arborwood P-Plat Minor Amend South and North	P PLAT Amend Minor	2,3,4, 5,6	APPROVED	11/12/2021	02/15/2022	Yes
23-02253	Arborwood P-Plat Minor Amend #3	P PLAT Amend Minor	3, 6	COMPLETE. RETURNED	05/10/2023	11/06/2023	Yes
20-03261	Arborwood Pulte Phase 1, Div. 1	SDAP-LSUB	1	ISSUED	7/23/2020	09/23/2020	Yes
22-03239	Arborwood Pulte Phase 1, Div. 2, Lots-56	FINAL PLAT	1	CLOSED	07/01/2022	07/25/2022	Yes
20-03261H2	Arborwood Pulte Phase1, Div. 2	SDAP-LSUB	1	ISSUED	01/30/2023	01/30/2023	Yes
22-04763	Arborwood Pulte Phase 1, Div. 2 Lots-43	FINAL PLAT	1	CLOSED	09/26/2022	01/27/2023	Yes
22-00785	Arborwood Pulte Spine Road A	SDAP-LSUB	1,2,3	ISSUED	02/15/2022	06/07/2022	Yes
22-03235	Arborwood Pulte Phase 2 (Early clearing & grading permit)	SDAP-Grading	2	READY TO ISSUE	07/01/2022	08/09/2022	Yes
22-05810	Arborwood Pulte Phase 2	SDAP-LSUB	2	UNDER REVIEW	12/01/2022	12/16/2022	Yes
22-02629	Arborwood Taylor allow the north and south bridges	CABR	2	Approved APPEAL	05/26/2022	03/01/2023	Yes
21-06120	Taylor Morrison	SDAP-LSUB	4,5	UNDERREVIW (3rd)	12/07/2021	01/05/2022	Yes
22-00374	Taylor Morrison (Early clearing & grading permit)	SDAP-Grading	4, 5, 6	RETURNED (5th)	04/07/2022	04/07/2022	Yes
22-01583	Arborwood Taylor South Bridge	C-MISC	5	COMPLETE, RETURNED	04/03/2022	04/07/2022	Yes
22-01583	Arborwood Taylor North Bridge	C-MISC	4	COMPLETE, RETURNED	04/03/2022	04/07/2022	Yes

Arborwood Vesting

22-02107	Arborwood Taylor Wall 4	C-RET/WALL	4	COMPLETE, RETURNED	05/02/2022	05/10/2022	Yes
22-02108	Arborwood Taylor Wall 5	C-RET/WALL	4	COMPLETE, RETURNED	05/02/2022	05/10/2022	Yes
22-02117	Arborwood Taylor Wall 1	C-RET/WALL	5	COMPLETE, RETURNED	05/03/2022	05/10/2022	Yes
22-02118	Arborwood Taylor Wall 2	C-RET/WALL	5	COMPLETE, RETURNED	05/03/2022	05/10/2022	Yes
22-02119	Arborwood Taylor Wall 3	C-RET/WALL	5	COMPLETE, RETURNED	05/03/2022	05/10/2022	Yes
23-03155	Arborwood Noth Phase 4	F PLAT	4	COMPLETE, RETURNED	06/27/2023	07/19/2023	Yes
23-03155	Arborwood Noth Phase 5	F PLAT	5	COMPLETE, RETURNED	09/12/2023	11/07/2023	Yes
23-02875	Arborwood Wall #6	C-RET/WALL	5	COMPLETE, RETURNED	06/13/2023	06/21/2023	Yes

Ref KCC 21.04.150 Vesting, KCC 21.04.160 Contents of Application, RCW 58.17.033(1)-Subdivisions, and RCW 19.27.095(1) Building Permits

Attachment F

DEVELOPMENT AGREEMENT
Between
KITSAP COUNTY AND OPG PROPERTIES, LLC
[Arborwood]

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into effective February 8, 2010, by and between the OPG PROPERTIES, LLC, a Washington limited liability company ("OPG"), and KITSAP COUNTY, a Washington municipal corporation ("County").

RECITALS

A. OPG owns approximately 360 acres located within the Kingston Urban Growth Area as designated by Ordinance No. 352-2005 adopted by the County on December 19, 2005, as legally described in Attachment A ("Property") and shown on the map attached as Attachment B. Ordinance No. 352-2005 amended the Kingston Sub-Area Plan ("Sub-Area Plan") and updated the Urban Growth Area and related zoning consistent with the Sub-Area Plan. The Property is zoned Urban Cluster Residential ("UCR").

B. Ordinance No. 352-2005 provides that a development agreement shall be executed by the County and OPG for the Property to establish development standards and an applicable vesting period. Further, it provides that no development will be permitted until this Agreement is approved. OPG intends to develop the Property for residential and other uses and to dedicate a 104 acre Greenway, as set forth in this Agreement ("Project").

C. The legislature has authorized local governments to enter into a development agreement with the owner of real property to establish development rights and vesting (RCW 36.70B.170, *et seq.*, "Development Agreement Statute"). Further, the legislature has provided for vesting of development standards upon the submittal of a complete plat application ("Plat Statute," RCW 58.17.033).

D. OPG has a vested plat application for the Property for 765 residential units (LU-1074, submitted September 16, 1991), but OPG will withdraw this plat application upon execution of this Agreement and termination of all appeals of this Agreement or the Plat (defined in Recital E below).

E. OPG also submitted a complete preliminary plat/performance based development application (07 47662) on March 26, 2008, for 751 residences consisting of a mix of single-family homes along with duplexes, town homes and approximately 20,000 square feet of retail space ("Project"). This application is considered the "Preliminary Plat" or "Plat" for the entire Property and was before the Hearing Examiner on August 13, 2009, and the hearing on this Development Agreement was held before the Hearing Examiner on October 8, 2009. The Hearing Examiner approved the Plat on October 28, 2009.

F. The County has determined that the Project is a development that meets the goals and purposes for which the Development Agreement Statute was enacted. This Agreement will

eliminate uncertainty in long-term planning, provide for the orderly development of the Project on a comprehensive basis consistent with the Growth Management Act, provide for services appropriate for development of the Project and effectively utilize resources within the County. This Agreement implements and fulfills the requirement of Ordinance 352-2005 for a development agreement prior to commencement of development on the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth in this Agreement, the parties agree as follows:

1. **PROJECT ELEMENTS.** The Project includes approximately 360 acres, of which approximately 104 acres will be dedicated to the County as a "Greenway" area, and until which time will be held in a conservation easement as provided in Section 2.5.

For the remaining approximately 257 acres, all wetlands and open space areas will be established outside of the development areas. The designation of open space areas will be subject to County approval and consistent with Kitsap County regulations. Within the development areas, residential and any commercial development will occur as set forth herein and consistent with the Development Standards in Section 2. The conceptual plan for the Property and the basis of the Plat is shown in Attachment B.

2. **PROJECT DEVELOPMENT STANDARDS.** The Project shall be governed by the following development standards and mitigation measures (collectively "Development Standards").

2.1 Zoning; Densities; Uses. The Property shall be developed consistent with the UCR zone as modified herein. The total dwelling units within the Property shall not exceed 751, unless and until additional population is allocated to the Kingston UGA, at which time the parties may negotiate an amendment to this Agreement along with additional development applications and SEPA review. Achieving all or any portion of the 751 maximum number of dwelling units is subject to compliance with applicable development standards under this Agreement.

No commercial or retail uses otherwise allowed in the UCR zone will be permitted without approval by the County. At this time and pursuant to this Agreement, the County approves the Project for a maximum of 20,000 square feet of commercial uses (in addition to any live/work residential units), even though the UCR zone does not contain any limit on the amount of commercial and retail uses. Within that 20,000 square feet maximum, the following uses are authorized: day care; general retail less than 5,000 square feet per user; general office less than 5,000 square feet per user; restaurants (no drive-in or drive-thru); coffee shop; grocery/sundry less than 5,000 square feet per user; artist or craftsmen's studio, shop or gallery; personal services; private athletic/recreational facility; public or private educational facility; or other uses specifically approved by the County as part of the approval of the Project. To the extent required by the County's zoning code, the actual construction of these commercial and retail uses shall be subject to approval of an administrative or hearing examiner conditional use permit.

2.2 Roads/Transportation Standards. The Project shall comply with the road standards and standards for access, circulation and parking as applicable under the UCR zone and County Code in effect on March 26, 2008. OPG will comply with all traffic conditions of the preliminary Plat approval. The portion of the north-south spine road needed to serve Phase 1 development will be fully constructed as part of Phase 1, with the remainder of the spine road to be rough-graded as part of Phase 1 for placement of utilities and for emergency access. The Project has been issued a concurrency reservation certificate for 7,187 average daily trips, which the County may increase to 7,284 ADT based on the Transpo Traffic Impact Analysis methodology for Arborwood, including consideration of pass-by rates and internal capture. The certificate of concurrency to be issued under KCC 20.04.070, to replace the concurrency reservation certificate shall have an expiration date that is the expiration of the term of this Agreement under Section 4.1. If a "roundabout" is used for the north entrance to the Project off South Kingston Road, then all or substantially all of any additional right of way required for the roundabout will be from the Arborwood property.

2.3 Water and Sanitary Sewer Standards. All development within the Project will be served by public water and sanitary sewer. OPG shall install sewer and water facilities within the Project site and extend those services to connect to the County's sewer system and to the PUD #1's water system. The County hereby agrees it has adequate capacity to serve and will serve the Project with sanitary sewer. The parties acknowledge the location of a sewer treatment plant on adjoining property.

2.4 Stormwater Standards. The stormwater drainage system improvements shall be designed consistent with the County's Stormwater Code and Manual in effect on March 26, 2008. OPG will evaluate the potential application of low impact stormwater management methods.

2.5 Greenway Conservation Easement and Dedication; Open Space and Trails. The parties acknowledge that the final precise boundaries of the Greenway will be established over time based on updated field information and with the recording of the Phases of the Plat that adjoin the Greenway. A general "Greenway" area containing at least 104 acres will be initially placed in a recorded conservation easement by OPG ("Conservation Easement"), attached hereto as Attachment G. OPG will record the Conservation Easement no later than the County's issuance of the first Site Development Activity Permit for the Project. The parties desire flexibility to mutually agree on revisions to the Greenway boundary. Consequently, the Conservation Easement contains provisions allowing mutually agreed general boundary revisions and an "exchange" of areas by adding new land to the Conservation Easement and concurrently withdrawing land previously within the Conservation Easement, but at all times maintaining at least 104 acres of Greenway. Upon recording of the Final Plat Phase, or at any early time that OPG and the County determine the Greenway boundaries are final, OPG will dedicate title of the Greenway to the County.

To facilitate development of adjoining areas, the Conservation Easement will allow the installation of facilities for trails, drainage, access, utilities and similar uses within the Greenway, and the dedication of the Greenway to the County will reserve easements for such uses. The Project will include trails and open space corridors to the extent approved in the Plat.

The regional public trail link along the internal spine road will be part of the dedicated road right of way to the County. The regional trail link will be a 10 foot wide, paved pedestrian and bicycle path adjacent to the spine road through the Project and will be located within the public road right of way. The trail will be separated from the road by a stormwater collection and treatment swale. Since the spine road will be constructed in phases, the regional trail link likewise will be constructed in phases corresponding with the road construction.

When completed, this trail will be owned and maintained by the County. Except for the regional trail link, the north/south mid-point connector trail link to adjoining property, the Greenway Trail (all as described in Attachment H), or other areas dedicated to and maintained by the County, all trails, critical area buffers and associated fencing, recreational open spaces, parks, landscaping at Project entries, street trees and other common areas within the Project will be owned and maintained by a homeowners association pursuant to covenants and restrictions reviewed and approved by the County. A summary of the construction, ownership, maintenance and phasing of the regional trail, the north/south mid-point connector trail to adjoining property and the Greenway Trail is attached hereto as Attachment H.

2.6 Capital Facility Standards. The Level of Service standards applicable to the Project for roads, water, sewer, police, fire, parks/open space, schools and the other capital facilities and services are those in effect on March 26, 2008.

2.7 Latecomer Agreements. Upon an application by OPG, and to the extent authorized by state law or County Code, the County may enter into developer extension payback contracts or latecomer agreements with OPG to reimburse OPG to the extent OPG installs sewer, road, stormwater or other infrastructure improvements with additional capacity that is available to serve other properties. The County is not obligated by this Agreement to enter into any such latecomer agreements, but may do so at its discretion and through negotiations separate from this Agreement. Notwithstanding OPG's right to request latecomer agreements, OPG will not seek latecomer payments for OPG's voluntary Plat conditions for the following facilities: (a) extension of a sewer line from Division 1 to South Kingston Road designed to convey potential wastewater flows from unsewered properties that lie within the current UGA that are east of the Plat and south of Arness Park on South Kingston Road, and (b) design of a pump station and force main to the wastewater treatment plant to allow for future expansion of the facilities if and when the unsewered properties that lie within the current UGA that are east of the Plat and south of Arness Park on South Kingston Road direct wastewater to this system.

2.8 Impact Fees. Impact fees for roads, schools and parks are payable as provided in Section 4.2.4. Credits for impacts fees are subject to the provisions of KCC 4.110 in effect at time a request for credit is made. Similarly, the park impact fees may be subject to a credit for the land dedicated in the Greenway subject to the provisions of KCC 4.110.

3. SEPA; MITIGATION.

3.1 Prior SEPA Documents. The Property has been the subject of prior SEPA analysis, including the EIS, Appendices and Addendum for the original Arborwood plat (formerly known as Applewood) and the Kingston Sub-Area Integrated Plan and EIS, as listed on Attachment D-1.

3.2 Further Project-Level SEPA Review. As part of the Plat application and review, the County issued a Mitigated Determination of Non-Significance and Notice of Adoption of Existing Environmental Documents ("MDNS/Adoption") on July 21, 2009, based on the prior SEPA documentation and the additional studies and analysis set forth in the County's SEPA determination on this Project. The MDNS/Adoption is attached hereto as Attachment D. A further listing of prior EIS and SEPA documentation and environmental studies relating to the Property is set forth in Attachment D-1. This project-level SEPA compliance is intended to satisfy all SEPA requirements for the subsequent build-out of the Project through Implementing Approvals (defined in Section 4). The SEPA documentation analyzed a "Project Envelope" representing the maximum allowable Project densities and uses described in Section 2.1 above using the Development Standards and mitigation measures approved in this Agreement ("Project Envelope"). The SEPA process to be followed for Implementing Approvals is set forth in Attachment C.

4. MITIGATION. The mitigation measures specified in the project-level SEPA documentation and the Plat have been determined to address and avoid significant adverse environmental impacts of the Project. The parties acknowledge the Project is entitled to use buffer averaging and modifications to the extent allowed in the County Code as of March 26, 2008. The Development Standards and other provisions of this Agreement satisfy all applicable concurrency and level of service requirements and constitute adequate and sufficient public facilities and services for the Project, unless modified by mutual consent.

5. MDNS MITIGATION. OPG will implement the mitigation measures set forth in the MDNS/Adoption, including but not limited to: (a) 3-way signalization and channelization at the intersection of South Kingston Road NE and NE West Kingston Road no later than issuance of a building permit for the 356th equivalent residential unit; (b) two way left turn lane on the east leg of SR104 at the Miller-Hansville Road intersection; and (c) increasing by approximately 39% the capacity of the stormwater pond serving the Grover's Creek Basin. With regard to the 3-way signalization and channelization mitigation, the following elements are required with the Phase 1 site development activity permits: (i) engineering design drawings for the intersection improvement project as approved with the Phase 1 development; (ii) a bond equal to 150% of the engineer's estimate of the total costs for final design, right of way acquisition where required, and construction; and (iii) the specific procedures to identify the development thresholds for initiating and completing construction.

6. TERM; VESTING.

6.1 Term. The term of this Agreement shall continue for a maximum of fifteen (15) years, which term may be extended for one (1) additional five (5) year period as follows: (a) if OPG (or successor owner(s) which own divisions or lots in the Project that contain at least 51% of the unbuild dwelling units) gives notice to the County stating that substantial development has occurred, with at least 51% of the residential units completed or with issued building permits, but that additional time is needed to complete the buildout of Project; or (b) at the County's discretion. Upon termination of this Agreement, the Property shall be governed by the adopted County zoning and related development regulations in effect at the time of termination.

6.2 Vesting.

6.2.1 Project Elements and Development Standards. In accordance with the Plat Statute and the Development Agreement Statute, the Project herein is vested to the Project Elements and Development Standards in Sections 1 through 3 in effect on March 26, 2008, the date the complete Preliminary Plat application was submitted. If this Agreement is amended to adopt the additional Development Standards, then OPG shall be vested to those additional Development Standards during the term of this Agreement.

During the term of this Agreement, all Implementing Approvals shall be governed by these vested Development Standards. Copies of the County code and other County standards that are the vested Development Standards for the Project are included as Attachment E to this Agreement for convenience in administering this Agreement and processing of Implementing Approvals. "Implementing Approvals" mean the applications submitted after adoption of the this Agreement for land use approvals, entitlements and permits which implement phasing and subsequent approvals for the Project, including but not limited to the Plat and all Phases, permits for grading, site development and infrastructure approvals. However, this vesting shall not prohibit OPG from providing more than the minimum required by the laws in effect on March 26, 2008. To implement the phasing, preliminary Plat approval is extended for the duration of the term of this Agreement. During the term of this Agreement, the County shall not modify or impose new or additional Development Standards, except as follows:

6.2.2 Construction Standards. All applications for Implementing Approvals shall conform to the most current versions of the International Building Code and Uniform Fire Code and similar construction codes as adopted by the County.

6.2.3 Review Fees. Permit applicants within the Project shall pay the County fees in effect on the date each Implementing Approval is submitted for processing.

6.2.4 Impact Fees. The impact fees payable during the term of this Agreement shall be the fee amounts in effect on the date of submittal of complete building permit applications. There shall be a credit against the impact fees for parks in the amount of the established fair market value of the Greenway consistent with the requirements of KCC 4.110.040. The appraisal establishing the fair market value per KCC 4.110 and acceptable to the County shall be attached to this Agreement as Attachment I once the appraisal is completed (which may be after this Agreement is signed). Upon completion of the appraisal, the parties will compute the number of dwelling units for which park fees have been "prepaid" with the credit (*i.e.* dividing the total credit amount by the per unit impact fee rate in effect at the time the appraisal is completed). If the credit amount is less than the total park fees due at the time of the appraisal, then the park impact fees assessed in excess of this established value shall be payable on all subsequent building permit applications. [By way of example, if hypothetically the appraisal established the credit at \$300,000 and the park impact fee at the time the credit was determined was \$491/unit, then the first 611 units would be "prepaid," and payment of park impact fees would begin with the 612th unit, at the rate in effect on the date of the application for the 612th building permit.]

6.2.5 Other Fees. Unless otherwise provided in the adopted Plat, all utility connection fees and other fees not specifically addressed by this provision shall be paid in accordance with the rules in effect on the date the fee-generating activity occurs, but the amount of such fees shall take into account the facilities installed by OPG at its cost (and not at the cost of the utility).

6.2.6 County's Reserved Authority. In accordance with Development Agreement Statute, RCW 36.70B.170(4), the County reserves the authority to impose new or different Development Standards to the extent required to prevent a serious threat to public health and safety.

7. WITHDRAWAL OF ARBORWOOD PLAT. Upon full execution of this Agreement, and upon the termination of all appeals of this Agreement and/or the Preliminary Plat, OPG will withdraw the pending vested plat of Arborwood. (LU-1074 submitted September 6, 1991.)

8. GENERAL PROVISIONS.

8.1 Authority; Severability. The County and OPG each represent and warrant it has the respective power and authority, and is duly authorized to execute, deliver and perform its obligations under this Agreement. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of OPG and County, as well as any city that incorporates or annexes this area as provided in RCW 36.70B.190. If any provision of this Agreement is determined to be unenforceable or invalid by a court of competent jurisdiction, then (a) this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law, (b) the parties agree to seek diligently to modify the Agreement consistent with the court decision, (c) neither party shall undertake any actions inconsistent with the intent of this Agreement until the modification to this Agreement has been completed, and (d) the validity of the remaining provisions will not be affected.

8.2 Amendment; Minor Modifications. Any amendment to this Agreement must be approved by the County and OPG so long as OPG owns any portion of the Property. All amendments will be processed in accordance with RCW 36.70B, including public notice. Notwithstanding the foregoing, the Director of DCD or his designee may administratively approve corrections, minor modifications or other changes (collectively "Modifications") to the Project or Development Standards to the extent allowed under Kitsap County Code sections. Such Modifications shall not be deemed amendments to this Agreement. Kitsap County Code provisions authorizing such Modifications include but are not limited to the following: (a) minor revisions such as adjustments in final lot sizes or configuration, adjustments in road alignment or layout or adjustments in trail location or surfaces under KCC 17.425.110 for Performance Based Developments; (b) buffer or setback modifications or averaging under the Critical Areas Ordinance (KCC Title 19); (c) administrative variances of a numerical standard under KCC 17.455.010; (d) formal variances under KCC 17.500; or (e) other Code provisions authorizing administrative modifications. To the extent any of these code provisions for Minor Modifications described in this section provide for public notice, then the County will provide the code-required notice prior to any decision on that Minor Modification.

8.3 Recording; No Third-Party Beneficiary. Pursuant to the Development Agreement Statute, RCW 36.70B.190, a memorandum of this Agreement shall be recorded with the Kitsap County Auditor. This Agreement is made and entered into for the sole protection and benefit of the parties, their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

8.4 Notices. All communications, notices and demands of any kind which a party under this Agreement requires or desires to give to any other party shall be in writing and either (a) delivered personally (including delivery by professional courier services), (b) sent by facsimile transmission with an additional copy mailed first class, or (c) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, to the addresses set forth with each signature. Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered 48 hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given. Notices shall be directed to the Director of Kitsap County Department of Community Development for the County and Jon Rose for OPG.

8.5 Relationship of the Parties. Notwithstanding any other provision of this Agreement, or any other agreements, contracts or obligations which may derive herefrom, nothing herein shall be construed to make the County or OPG partners or joint venturers, or to render any other parties liable for any of the debts or obligations of the other parties.

8.6 Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington. Any action with respect to this Agreement shall be brought in Kitsap County Superior Court, Port Orchard, Washington.

8.7 Multiple Originals. This Agreement may be executed in multiple copies, each of which shall be deemed an original.

8.8 Headings; Attachments. The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement. All parties hereto have been represented by legal counsel and accordingly hereby waive the general rule of construction that an agreement shall be construed against its drafter. Attachments A through I are incorporated in the Agreement by this reference as if fully set forth.

[Remainder of page intentionally left blank.]

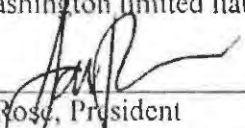
IN WITNESS WHEREOF this Agreement has been entered into between the County and OPG effective on the last date of signatures below.

DATE: 3/10/2010

DATE: 2/8/10

OPG Properties, LLC,
a Washington limited liability company

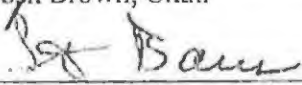
KITSAP COUNTY
BOARD OF COMMISSIONERS



Jon Rose, President
19245 Tenth Avenue NE
Poulsbo, WA 98370-7456



Josh Brown, Chair



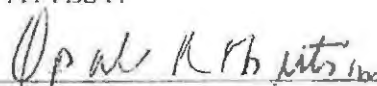
Steve Bauer, Commissioner

NOT PRESENT

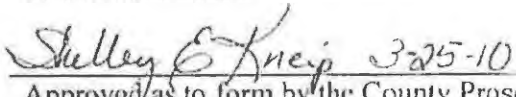
Charlotte Garrido, Commissioner



ATTEST:



Opal Robertson
Clerk of the Board



Approved as to form by the County Prosecutor's
Office

LIST OF ATTACHMENTS:

- | | |
|----------------|--|
| Attachment A | Legal Description of Property |
| Attachment B | Map and Conceptual Plan of Property |
| Attachment C | SEPA Compliance for Implementing Approvals |
| Attachment D | Mitigated Determination of Non-Significance and Notice of Adoption of Existing Environmental Documents |
| Attachment D-1 | List of SEPA Documentation and Environmental Studies |
| Attachment E | Copies of Vested Development Standards |
| Attachment F | Phasing Map |
| Attachment G | Form of Conservation Easement |
| Attachment H | Summary of Trails Construction, Ownership, Maintenance and Phasing |
| Attachment I | Appraisal of 104-Acre Greenway |

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this 10th day of March, 2010, before me personally appeared JON ROSE, to me known to be the President of OPG PROPERTIES, LLC, that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute and in fact executed said instrument on behalf of the company.

Given under my hand and official seal this 10th day of March, 2010.



Sarah Steffen
Type/Print Name SARAH J. STEFFEN
Notary Public in and for the State of Washington
residing at Palisbu, Kitsap County
My Commission expires 12/15/2010

ATTACHMENT A

LEGAL DESCRIPTION OF PROPERTY

PARCEL A:

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 2,
TOWNSHIP 26 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

PARCEL B:

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2,
TOWNSHIP 26 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

PARCEL C:

THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2,
TOWNSHIP 26 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

PARCEL D:

THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER
OF SECTION 2, TOWNSHIP 26 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY,
WASHINGTON;
EXCEPT THE EAST 30 FEET PER KITSAP COUNTY RESOLUTION NO. 467-1975 .

PARCEL E:

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER
OF SECTION 2, TOWNSHIP 26 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY,
WASHINGTON;
EXCEPT THE WEST AND SOUTH 50 FEET THEREOF;
EXCEPT THE EAST 30 FEET THEREOF;
AND EXCEPT THAT PORTION CONVEYED TO KITSAP COUNTY BY DEED
RECORDED UNDER AUDITOR'S FILE NO. 200502020189.

PARCEL F:

THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE
NORTHEAST QUARTER AND THAT PORTION OF GOVERNMENT LOT 2 LYING WEST
AND SOUTH OF SOUTH KINGSTON ROAD NE, WHICH RUNS ALONG THE
WESTERLY BOUNDARY OF RECORDED PLAT OF KINGSTON BEACH TRACTS NO. 2
IN SECTION 35, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY,
WASHINGTON;
EXCEPT PORTIONS THEREOF LYING WITHIN PLAT OF KINGSTON BEACH TRACTS
NO. 2, ACCORDING TO THE PLAT RECORDED IN VOLUME 5 OF PLATS, PAGE 18,
RECORDS OF KITSAP COUNTY, WASHINGTON;
AND EXCEPT THE WEST 653.90 FEET THEREOF.

PARCEL G:

THE NORTH 333.08 FEET OF THE WEST 653.9 FEET OF THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THAT PART OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, LYING WEST AND SOUTH OF COUNTY ROAD, WHICH RUNS ALONG THE WESTERLY BOUNDARY OF THE RECORDED PLAT OF KINGSTON BEACH TRACTS NO.2;
EXCEPT PORTION THEREOF LYING WITHIN THE PLAT OF KINGSTON BEACH TRACTS NO.2, ACCORDING TO PLAT, RECORDED IN VOLUME 5 OF PLATS, PAGE 18, IN KITSAP COUNTY, WASHINGTON;
EXCEPT ROADS;

PARCEL G-1:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER, UNDER AND ACROSS THE SOUTH 60 FEET OF THE NORTH 363.08 FEET OF THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND THAT PART OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, LYING WEST AND SOUTH OF COUNTY ROAD, WHICH RUNS ALONG THE WESTERLY BOUNDARY OF THE RECORDED PLAT OF KINGSTON BEACH TRACTS NO.2;
EXCEPT PORTION THEREOF LYING WITHIN THE PLAT OF KINGSTON BEACH TRACTS NO.2, ACCORDING TO PLAT RECORDED IN VOLUME 5 OF PLATS, PAGE 18, IN KITSAP COUNTY, WASHINGTON;
EXCEPT ROADS .

PARCEL H:

THE WEST 653.90 FEET OF THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; AND THAT PART OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, LYING WEST AND SOUTH OF COUNTY ROAD WHICH RUNS ALONG THE WESTERLY BOUNDARY OF THE RECORDED PLAT OF KINGSTON BEACH TRACTS NO.2;
EXCEPT PORTION THEREOF LYING WITHIN THE PLAT OF KINGSTON BEACH TRACTS NO. 2, ACCORDING TO THE PLAT RECORDED IN VOLUME 5 OF PLATS PAGE 18, IN KITSAP COUNTY, WASHINGTON;
EXCEPT THE NORTH 333.08 FEET OF THE ABOVE DESCRIBED PROPERTY.

PARCEL H-1:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER, UNDER AND ACROSS THE SOUTH 60.00 FEET OF THE NORTH 363.08 FEET OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION AND THE EASTERLY PROLONGATION OF SAID SOUTH 60.00 FEET INTO GOVERNMENT LOT 2, SAID SECTION, TO THE WESTERLY MARGIN OF SOUTH KINGSTON ROAD;
EXCEPT FOR THE WEST 653.9 FEET OF SAID 60.00 WIDE STRIP.

PARCEL I

THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, ALL IN SECTION 35, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

ATTACHMENT B
MAP & CONCEPTUAL PLAN OF PROPERTY

SITE AREA INFORMATION

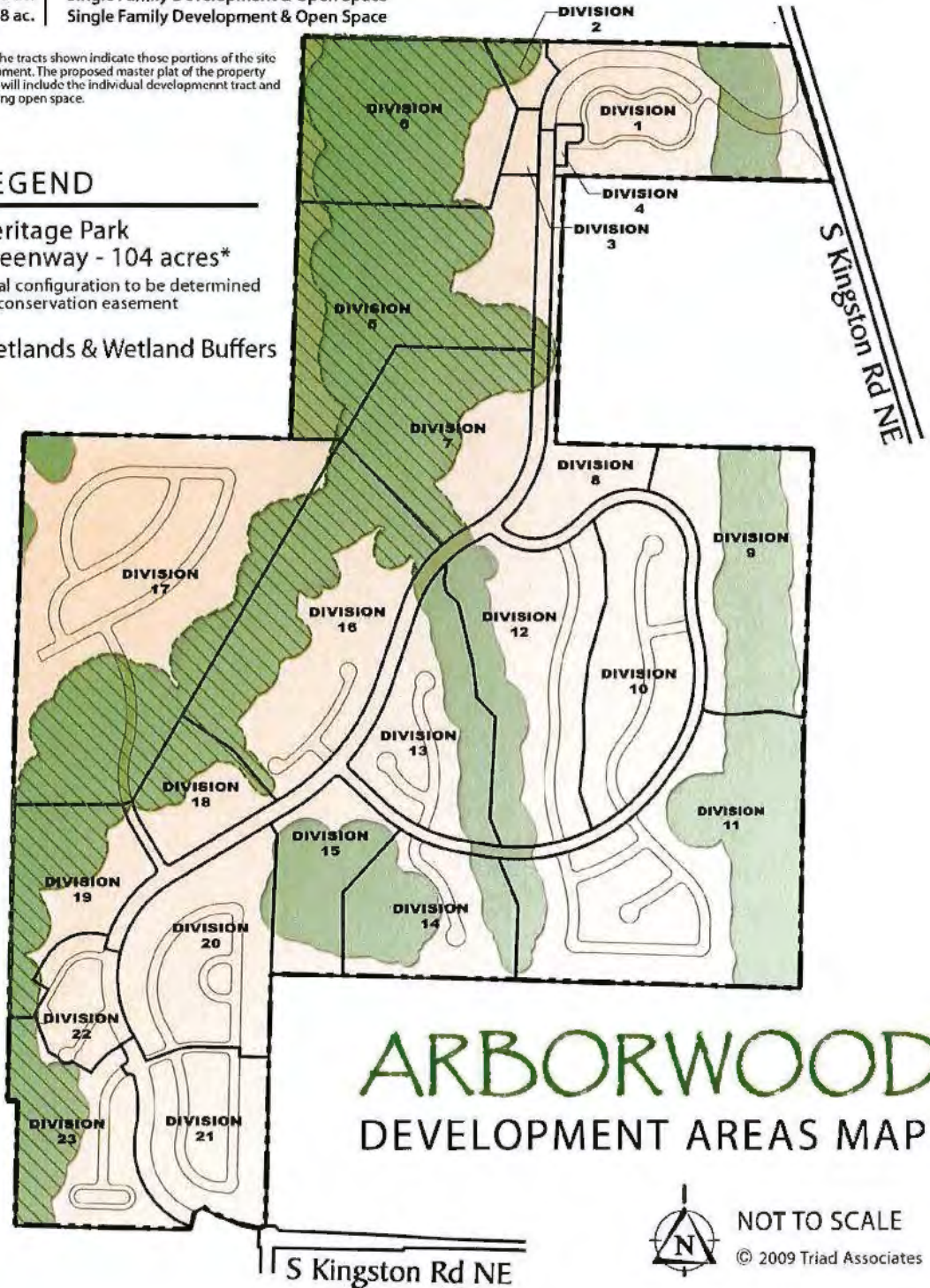
DEVELOPMENT TRACTS

DIV #	SIZE	LAND USE	DIV #	SIZE	LAND USE
1	19.8 ac.	Single Family Development & Open Space	14	12.13 ac.	Single Family Development & Open Space
2	1.91 ac.	Attached Residential & Open Space	15	8.79 ac.	Potential Future Development & Open Space
3	1.20 ac.	Neighborhood Center / Commercial	16	25.26 ac.	Single Family Development & Open Space
4	0.44 ac.	Neighborhood Center / Commercial	17	45.87 ac.	Single Family Development & Open Space
5	24.40 ac.	Attached Residential & Open Space	18	6.58 ac.	Attached Residential & Open Space
6	19.12 ac.	Open Space / Storm Drainage	19	10.70 ac.	Open Space / Storm Drainage
7	15.22 ac.	Open Space / Recreation	20	15.44 ac.	Single Family Development & Open Space
8	6.41 ac.	Single Family Development	21	12.40 ac.	Single Family Development
9	18.23 ac.	Single Family Development & Open Space	22	5.43 ac.	Single Family Development
10	15.46 ac.	Single Family Development	23	13.09 ac.	Single Family Development & Open Space
11	32.77 ac.	Single Family Development & Open Space			
12	19.96 ac.	Single Family Development & Open Space			
13	13.08 ac.	Single Family Development & Open Space			

Development Tract: The tracts shown indicate those portions of the site proposed for development. The proposed master plat of the property will create lots which will include the individual development tract and portion of the adjoining open space.

LEGEND

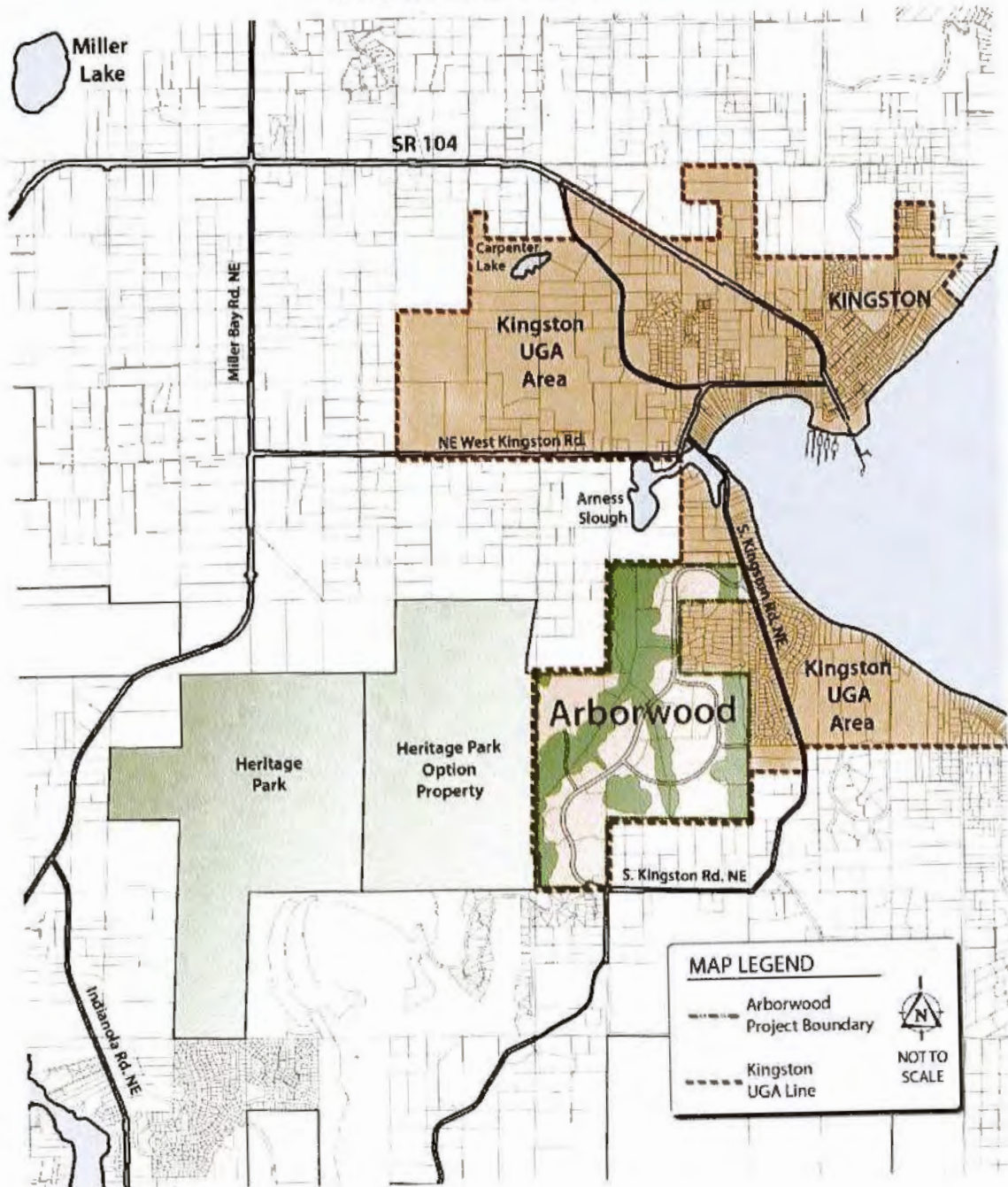
-  Heritage Park Greenway - 104 acres*
- * Final configuration to be determined by conservation easement
-  Wetlands & Wetland Buffers



NOT TO SCALE

© 2009 Triad Associates

ARBORWOOD VICINITY MAP



ATTACHMENT C

SEPA COMPLIANCE FOR IMPLEMENTING APPROVALS

Upon receipt of any application for an Implementing Approval (defined in Section 4.2.1 of the Agreement), the County shall undertake SEPA compliance as follows:

Step 1 - Project Envelope Determination. First, the County shall determine if the requested Implementing Approval applied for is within the Project Envelope, as defined in Section 3.2 of the Agreement. The County can request the applicant to provide reasonable information (including for convenience an environmental checklist even if a threshold determination is not required under this Step 1) to the extent needed to determine the requested action is within the Project Envelope. If so, and if there have been no substantial changes, changed circumstances, or new information regarding the Project or its impacts that were not previously analyzed, then the existing SEPA documents and analysis shall be utilized and no further SEPA threshold determination is required. Under WAC 197-11-600(4)(a), "Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document." **If the application is beyond the Project Envelope, then a threshold determination is required under Step 2 below.**

Step 2 - Threshold Determination. If the requested Implementing Approval exceeds the Project Envelope, then the County shall prepare a threshold determination, taking into account the existing SEPA documents and analysis and the governing Development Standards under this Agreement which address environmental mitigation for the Project. Any studies or other information requested by the County from the applicant shall relate only to those potential impacts not adequately covered by the existing SEPA documents and analysis. The County shall issue a determination of non-significance (DNS) or a mitigated DNS (MDNS) utilizing an addendum or incorporating the prior SEPA documents and analysis to the fullest extent possible, except an addendum or supplemental EIS (SEIS) shall be required if the conditions in Step 3 are present.

Step 3 - SEIS. The County shall prepare an addendum or SEIS if there are:

3.1 Substantial changes to the Project so that the proposal or Project Envelope described in the existing SEPA documents and analysis are likely to have significant adverse environmental impacts not previously analyzed and which cannot be mitigated through the Threshold Development Standards applicable to the Project (or revisions, additions and amendments to those Development Standards); or

3.2 New information indicating the Project is likely to have significant, adverse environmental impact not previously analyzed in the existing SEPA documents and analysis and which cannot be mitigated through the Threshold Development Standards applicable to the Project (or revisions, additions and amendments to those Development Standards).

If an addendum or SEIS is required, the County shall limit the scope thereof to the impacts which required the additional analysis (e.g. the County shall utilize a focused scope and EIS).

Step 4 - Modified Development Standards. If the SEIS discloses additional mitigation is required to avoid a serious threat to public health and safety hazards, then the Development Standards applicable to the Project may be modified.

ATTACHMENT D

**MITIGATED DETERMINATION OF NON-SIGNIFICANCE AND NOTICE OF
ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENTS**



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

614 DIVISION STREET MS-36, PORT ORCHARD WASHINGTON 98386-4682 LARRY KEETON, DIRECTOR
(360) 337-5777 FAX (360) 337-4925 HOME PAGE - www.kitsapgov.com/dcd/

MITIGATED DETERMINATION OF NON-SIGNIFICANCE AND NOTICE OF ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENTS

Adoption for (check appropriate box) DNS EIS

Description of current proposal: Arborwood Preliminary Plat (#07 47662) - Preliminary Plat consisting of 751 residences, including a mix of single-family homes, duplexes and townhomes, along with approximately 20,000 square feet of retail space on a total 361 acre site. The applicant intends to dedicate the greenway area consisting of approximately 104 acres to the County in lieu of payment of the park impact fee. A Development Agreement between the applicant and Kitsap County is required to be adopted in addition to the Preliminary Plat approval.

The proposal would be constructed in multiple phases, based on marked conditions. The project area was included in the Urban Growth Area alternatives analysis for the 2002/2003 Kingston Sub-Area Plan Supplemental Environmental Impact Statement (SEIS), and constitutes a continuation of the phased SEPA review from a non-project action to a project action. Site-specific impacts were also initially analyzed in the EIS for the larger, original Arborwood (formerly known as "Applewood") proposal in the mid-1990s, and are supplemented with updated geotechnical, habitat, stormwater, traffic and wetland studies. The site contains wetlands, and contributes stormwater to both the Grovers Creek and Carpenter Creek drainage basins, both of which support resident and anadromous fish. Two on-site tributary streams contribute nutrients and sediments to the Carpenter Creek Estuary, and the sediments and nutrients from the systems provide high quality estuary habitat. A headwater tributary to Grovers Creek also occurs in the southwest corner of the property.

Proponent: Olympic Property Group LLC

Location of current proposal: The property is located at 24828 South Kingston Road NE, approximately 1.5 miles southwest of the unincorporated community of Kingston in north Kitsap County. The 361 acre site is generally bound by South Kingston Road on the northeast and southeast, the Whitehorse Development on the southwest, and Norman Road on the northwest,

Title of documents being adopted: Applewood/Arborwood Draft and Final EIS, EIS Appendices, and EIS Addendum; Final Supplemental EIS (FSEIS) for the Kingston Sub-Area Plan. Note: the 2003 Kingston Sub-Area FSEIS was incorporated by reference into the Kitsap County 10-Year Comprehensive Plan Update Integrated Comprehensive Plan and EIS, December 2006 (Volume II).

Agency that prepared documents being adopted: Kitsap County

Date adopted documents were prepared: 1993 (Applewood/Arborwood Draft EIS and appendices), 1994 (Arborwood/Applewood Final EIS), 1996 (Arborwood EIS Addendum), 2003 (FSEIS for Kingston Sub-Area Plan).

Description of documents (or portion) being adopted: (1) The Applewood (later Arborwood) EIS, prepared in 1993 and 1994, analyzed a proposed Planned Unit Development consisting of 765 dwelling units on a 722 acre site, including a golf course. The 1996 EIS addendum was

prepared to analyze a modified proposal, including deletion of the golf course element. The project was subsequently put on hold. (2) In 2002 and 2003, the Kingston Sub-Area Plan SEIS analyzed inclusion of the easterly project area into the Urban Growth Area for Kingston, thus absorbing the proposed residential density within the urban growth boundary, consistent with the Growth Management Act. The FSEIS discusses the general impacts of the plan alternatives considered for the Kingston Sub-area, including the Arborwood proposal under Alternative C. Additionally, the FSEIS describes the general nature of the cumulative impacts expected to occur both inside and outside the sub-area as a result of adopting the Kingston Sub-area Plan.

The FSEIS states that "future actions implementing the sub-area plan will be more specific in nature and will have impacts that can be more definitively described and analyzed. These future actions will also be reviewed for potential environmental impacts using the SEPA process. Consequently, the environmental review of the proposed Kingston Sub-Area Plan and subsequent programs, such as changes to development regulations, capital improvement projects, and site-specific land development proposals, will occur in phases." (FSEIS, Section 2.0.C).

Following County approval of the Supplemental EIS and Sub-Area Plan, the westerly project area (outside of the urban growth boundary) was down zoned and eliminated from the proposal, reducing the total project area to the current size of 361 acres. A new project application, only for that area within the urban growth boundary, was submitted to Kitsap County in 2007, and is the subject of this SEPA review.

If the document being adopted has been challenged (197-11-630), please describe:

The Applewood/Arborwood project was challenged during the land use hearing process for the original 722 acre proposal in the mid-1990's. However, the project was placed on hold prior to a formal decision on the land use request and the supporting documentation. Upon completion of the Kingston Sub-Area EIS and planning process, the proposal was subsequently revised to include only the easterly half of the original acreage. The westerly acreage was down zoned and excluded from the new project application. As such, the proposed development area has been reduced significantly from that analyzed in the original EIS. The 2003 Kingston Sub-Area Plan FSEIS, including Alternative C for the Arborwood site, was not challenged.

The documents are available to be read at (place/time): The Kitsap County Department of Community Development, 619 Division Street, Port Orchard, Monday through Thursday, 10:00 a.m. to 4:30 p.m. Please contact Karen Ashcraft at 360-337-5777 for viewing appointments.

We have identified and adopted these documents as being appropriate for this proposal after independent review. The documents, as supplemented by updated site-specific studies required pursuant to Kitsap County Code, meet our environmental review requirements for the current proposal and will accompany the proposal to the decision maker.

Mitigated DNS:

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment, or, where identified, such impacts have been analyzed in the adopted documents as supplemented by the newly submitted special reports referenced below. An additional environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no

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further comment period on the DNS.

SEPA Comments:

The SEPA comment period previously occurred concurrent with the Notice of Application dated April 7, 2008. Comments were received from the Suquamish Tribe, including but not limited to specific concerns with regard to impacts to Grovers Creek and it's associated in-stream and hatchery fishery production. Specific water quantity and quality impacts from development were noted, including reduction in recharge and increase in impervious surfaces and groundwater withdrawals. The applicant has subsequently revised the proposal to include increased stormwater storage capacity by an additional 39% for the pond serving the Grovers Creek Basin portion of the site. Additional site development areas will be conditioned pursuant to KCC Title 12 (Stormwater) for water quantity and quality impacts.

The applicant has submitted an updated wetland report (Raedeke Associates, Inc, December 2007) and Stream and Fish Habitat Assessment (GeoEngineers, December 2007) to supplement the existing critical area and habitat information for the site. As indicated in the Applewood/Arborwood EIS, clearing, grading and construction of the development, including roads and associated facilities, would eliminate a substantial portion of the upland forest vegetation and habitat from the site. However, approximately half of the area analyzed in the prior EIS has since been down zoned and is not included in the proposal, thus reducing the area of overall impact significantly. The proposed dedication of approximately 104 acres to the County Greenway area will further protect critical areas, although such areas are also subject to applicable buffer requirements pursuant to KCC Title 19. The retained areas would form corridors of habitat that connect with existing native habitats to the north (encompassing the Carpenter Creek Estuary) and to the west, which includes the western half of the former Applewood project that has since been down zoned and abuts the North Kitsap Heritage Park. Wetland buffer averaging is proposed for some portions of the site development; all such activity will be subject to the specific provisions of KCC 19.200 (Wetlands) upon Site Development Activity Permit review.

An updated geotechnical report has been submitted for site development activities, and includes specific recommendations for site grading, including seasonal restrictions (Zipper Zemen Associates, Inc., December 2007).

An updated Traffic Impact Analysis has resulted in mitigation requirements for off-site intersection improvements at state and county highway locations, as specified under mitigation below (Transpo Group, December 2007).

SEPA Mitigation Measures:

The following SEPA mitigation measures are required pursuant to SEPA Substantive Authority at KCC 18.04.200.D.3 (Comprehensive Plan, including Transportation Element), 14 (Stormwater) and 15 (Critical Areas):

1. Kitsap County Traffic Mitigation Conditions:

The applicant shall construct improvements to the intersection of South Kingston Road NE with NE West Kingston Road, including 3-way signalization and channelization. This improvement is for SEPA mitigation and the design shall be submitted in association with the first SDAP for Phase 1. The design shall meet Kitsap County Road Standards. The applicant may enter into a Developer's Agreement with Kitsap County to defer construction of these improvements until reaching a maximum threshold of 355 equivalent residential units, as reflected by building permit or site development activity permit applications for the

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development. This agreement shall require the following elements with Phase 1 site permits, at a minimum: 1) engineering design drawings for the intersection improvement project as approved with the Phase 1 development; 2) a bond equal to 150% of the engineer's estimate of the total costs for final design, right-of-way acquisition where required, and construction; and 3) the specific procedures to identify the development thresholds for initiating and completing construction.

The bond for the South Kingston Road NE/NE West Kingston Road intersection improvements will be adjusted after three years based on an updated engineer's estimate, and every three years thereafter until completed.

2. WSDOT Traffic Mitigation Conditions:

The Washington Department of Transportation (WSDOT) requires, as mitigation for the project, the construction of a Two Way Left Turn Lane (TWLTL) on the east leg of the SR 104 Miller-Hansville Road intersection. The TWLTL shall be constructed and operational as a condition of final plat approval for that development phase that includes the 200th equivalent residential unit (ERU) of the Arborwood Development. The TWLTL would extend from the existing westbound left turn lane east to about 150 feet east of the access that serves the Kingston Business Park that is located on the north side of SR 104 and to east of the Albertson's Store complex. Actual length of the turn lane would be determined in the design process, but the above description provides an approximate length of the TWLTL, which is estimated to require about 500 feet of road widening. The WSDOT point of contact is Dale Severson at (360) 357-2736: Washington State Department of Transportation, Development Review Attn: Dale Severson, PO Box 47440, Olympia, WA 98504-7440.

3. The capacity of the stormwater pond that serves the Grover's Creek Basin portion of the project shall be increased by approximately 39%, as specified in the letter to the Suquamish Tribe from the Olympic Property Group dated March 17, 2009. Compliance with Kitsap County Code Title 12 (Stormwater) shall also be required.

4. Wetland/stream crossings and buffer averaging proposals shall be reviewed for compliance with Kitsap County Code Title 19 (Critical Areas), in addition to applicable state and federal codes upon Site Development Activity Permit application. Buffer averaging requests may be altered pursuant to the applicable requirements at KCC 19.200.220.C(1)(a).

These mitigation measures, along with other development standards that will apply during the Arborwood project's phased build out pursuant to KCC Titles 11 (Road Standards), 12 (Stormwater), 16 (Subdivisions), 17 (Zoning) and 19 (Critical Areas), will be set forth in a Development Agreement between the applicant and Kitsap County.

Name of agency adopting document: Kitsap County
Responsible Official / Contact Person: David Greetham
Position/Title: SEPA Administrator, Dept. of Community Development Phone: (360)337-5777
Address: 619 Division Street, MS-36, Port Orchard, WA 98366

DATE: July 23, 2009 Signature: David Greetham

You may appeal this determination to the Dept. of Community Development, at 614 Division Street, Port Orchard WA 98366, no later than (date) August 6, 2009 in writing, with a \$500.00 appeal fee.

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ATTACHMENT E

COPIES OF VESTED DEVELOPMENT STANDARDS

Table of Contents Selected Vested Kitsap County Codes for Arborwood Plat/PBD/Development Agreement (LIS 07 47662)

This Appendix E sets forth the principal Kitsap County codes and regulations that constitute the vested development standards (i.e. those in effect on the Arborwood vesting date of March 28, 2008). All County codes and regulations in effect on that date are part of the vested development standards for Arborwood, whether or not they have been listed in this Appendix E. Actual copies of the codes listed below are contained in a separate 3-ring binder, and are incorporated into this Appendix E by this reference.

1.	Urban Cluster Residential Zone-KCC Ch. 17.335 (Ord. 311-2003; Ord. 367-2006)
2.	Allowed Uses-KCC Ch. 17.381 (Ord. 367-2006; Ord. 380-2007)
3.	Density, Dimensions and Design-KCC Ch. 17.382 (Ord. 367-2006; Ord. 382-2007; Ord. 381-2007)
4.	Critical Areas Ordinance-KCC Title 19 (Ord. 351-2005; Ord. 376-2007; Ord. 217-1998)
5.	Road Standards-KCC Ch. 11.22 (Ord. 293-2003; Ord. 404-2007)
6.	Transportation Facilities Concurrency –KCC Ch. 20.04 (Ord. 218-1998)
7. A	Storm Water Drainage-KCC Title 12 (Ord. 199-1996; Ord. 290-2002; Ord. 291-2002; Ord. 375-2007)
7. B	Kitsap County Stormwater Design Manual (Effective 4/1/1997)
8.	Land Use Procedures-KCC 21.04 (Ord. 219-1998; Ord. 290-2002; Ord. 369-2006)
9.	Definitions-KCC 17.110 (Ord. 367-2006; not including Ord. 415-2008 which was adopted November 10, 2008 and hence is after the vesting date of March 28, 2008)

Chapter 17.335 URBAN CLUSTER RESIDENTIALZONE (UCR)

Sections:

<u>17.335.010</u>	Purpose.
<u>17.335.020</u>	Uses.
<u>17.335.030</u>	Densities.
<u>17.335.040</u>	Lot requirements.
<u>17.335.050</u>	Height regulations.
<u>17.335.060</u>	Signs.
<u>17.335.070</u>	Off-street parking.
<u>17.335.080</u>	Other provisions.

17.335.010 Purpose.

The Urban Cluster Residential (UCR) zone is intended to encourage flexible land uses, recognizing that exact locations of uses must be based on the location of critical areas, transportation corridors, community needs and market conditions. The intent is to give flexibility to locate urban residential development in areas suitable for such uses by promoting a variety of housing choices, and to encourage affordable housing through innovative design. It allows a combination of single family, townhouse, duplex, and multiple-family housing, and zero lot line development, in order to encourage clustering of appropriate densities of residential housing in areas suitable for such development, while simultaneously providing a high level of protection for wetlands, streams and wildlife habitat areas, including areas which will help maintain the vitality of salmonid habitat. At the same time, the UCR zone should foster a development pattern that results in the design and construction of an interconnected system of pedestrian and bicycle trails and facilities linking residential neighborhoods with open spaces, recreational areas, transportation corridors and retail and employment opportunities, both within and outside the zone.

(Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.335.020 Uses.

Uses shall be allowed in accordance with Chapter 17.381 and Table 17.381.040(A), *Urban Residential Zones Use Table*.

(Ord. 367 (2006) § 52, 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.335.030 Densities.

Density shall be in accordance with Chapter 17.382 and Table 17.382.060, *Urban Residential Density and Dimensions Table*.

(Ord. 367 (2006) § 53, 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.335.040 Lot requirements.

Lot requirements shall be in accordance with Chapter 17.382 and Table 17.382.060, *Urban Residential Density and Dimensions Table*.

(Ord. 367 (2006) § 54, 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.335.050 Height regulations.

Height requirements shall be in accordance with Chapter 17.382 and Table 17.382.060, *Urban Residential Density and Dimensions Table*.

(Ord. 367 (2006) § 55, 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.335.060 Signs.

Signs shall be permitted according to the provisions of Chapter 17.445.
(Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.335.070 Off-street parking.

Off-Street parking shall be provided according to the provisions of Chapter 17.435.
(Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.335.080 Other provisions.

A. See Chapters 17.385, 17.430 and 17.455.

B. All development shall comply with the standards in the Kitsap County Storm Water Management Ordinance, Title 12 of this code, and the Kitsap County Critical Areas Ordinance, Title 19 of this code, as they now exist or are later amended, as well as all SEPA mitigation requirements.

C. Master Planning Requirements. Prior to any new development within an area zoned Urban Cluster Residential (UCR) which is also designated for master planning in an approved sub-area plan, a master plan shall be prepared for the entirety of the zone which is contiguous with the area proposed for new development, provided that the director may either increase or decrease the area within the sub-area that will be included in the master plan in order to maximize the efficiency of the process and assure coordination with areas that may be affected by the proposed new development. If the subject zone exists elsewhere within the sub-area, and is not contiguous to the area proposed for new development, it is not required that those non-contiguous same-zoned lands be included in the subject master plan.

(Ord. 311 (2003) [Attachment 7 (part)], 2003)

Chapter 17.381 ALLOWED USES

Sections:

- 17.381.010 Categories of uses established.
- 17.381.020 Establishment of zoning use tables.
- 17.381.030 Interpretation of tables.
- 17.381.040 Zoning use tables.
- 17.381.050 Footnotes for zoning use tables.
- 17.381.060 Provisions applying to special uses.

17.381.010 Categories of uses established.

This chapter establishes permitted, conditional, and prohibited uses, by zone, for all properties within Kitsap County. All uses in a given zone are one of four types:

- A. Permitted Use. Land uses allowed outright within a zone and subject to provisions within Kitsap County Code.
- B. Administrative Conditional Use. Land uses which may be permitted within a zoning designation following review by the director to establish conditions mitigating impacts of the use and to ensure compatibility with other uses in the designation.
- C. Hearing Examiner Conditional Use. Land uses with special characteristics that may not generally be appropriate within a zoning designation, but may be permitted subject to review by the hearing examiner to establish conditions to protect public health, safety and welfare.
- D. Prohibited Use. Land uses specifically enumerated as prohibited within a zone.
(Ord. 415 (2008) § 140, 2008; Ord. 367 (2006) § 105 (part), 2006)

17.381.020 Establishment of zoning use tables.

The tables in Section 17.381.040 establish allowed uses in the various zoning designations and whether the use is allowed as "Permitted," "Administrative Conditional Use," or "Hearing Examiner Conditional Use." Uses with approval processes that will be determined at a future date are identified as "Reserved." The zone is located at the top of the table and the specific use is located on the far-left of the vertical column of these tables.
(Ord. 367 (2006) § 105 (part), 2006)

17.381.030 Interpretation of tables.

A. Legend. The following letters have the following meanings when they appear in the box at the intersection of the column and the row:

P	Permitted Use
ACUP	Administrative Conditional Use Permit
C	Hearing Examiner Conditional Use Permit
PBD	Performance Based Development
X	Prohibited Use
R	Reserved

B. Additional Use-Related Conditions. The small numbers (subscript) in a cell indicate additional requirements or detailed information for uses in specific zones. Those additional requirements can be found in the table footnotes in Section 17.381.050. All applicable requirements shall govern a use whether specifically identified in this chapter or not.

C. **Unclassified Uses.** Except as provided in Section 17.100.040, Allowed uses, if a use is not listed in the use column, the use is prohibited in that designation.

Ord. 415 (2008) § 141, 2008: Ord. 367 (2006) § 105 (part), 2006)

17.381.040 Zoning use tables.

There are five separate tables addressing the following general land use categories and zones:

- A. **Urban Residential Zones.**
 - 1. Urban Restricted (UR).
 - 2. Urban Low Residential (UL).
 - 3. Urban Cluster Residential (UCR).
 - 4. Urban Medium Residential (UM).
 - 5. Urban High Residential (UH).
 - 6. Illahee Greenbelt Zone (IGZ).
- B. **Commercial and Mixed Use Zones.**
 - 1. Neighborhood Commercial (NC).
 - 2. Urban Village Center (UVC).
 - 3. Urban Town Center (UTC).
 - 4. Highway Tourist Commercial (HTC).
 - 5. Regional Commercial (RC).
 - 6. Mixed Use (MU).
- C. **Airport and Industrial Zones.**
 - 1. Airport (A).
 - 2. Business Park (BP).
 - 3. Business Center (BC).
 - 4. Industrial (IND).
- D. **Limited Areas of More Intensive Rural Development (LAMIRD).**
 - 1. Manchester Village Commercial (MVC).
 - 2. Manchester Village Low Residential (MVL R).
 - 3. Manchester Village Residential (MVR).
 - 4. Port Gamble Rural Historic Town Commercial (RHTC).
 - 5. Port Gamble Rural Historic Town Residential (RHTR).
 - 6. Port Gamble Rural Historic Town Waterfront (RHTW).
 - 7. Suquamish Village Commercial (SVC).
 - 8. Suquamish Village Low Residential (SVLR).
 - 9. Suquamish Village Residential (SVR).
- E. **Parks, Rural and Resource Zones.**
 - 1. Parks (P).
 - 2. Forest Resource Lands (FRL).
 - 3. Mineral Resource (MR).
 - 4. Rural Protection (RP).
 - 5. Rural Residential (RR).
 - 6. Rural Wooded (RW).
 - 7. Urban Reserve (URS).

Table 17.381.040(A) Urban Residential Zones.

Use	Urban Low-Density Residential				Urban Medium/High-Density Residential	
	UCR	IGZ	UR	UL (19)	UM (30)(47)	UH (19)(47)

↓
uCR

	(48)	(60)	(19)	(48)	(48)	(48)
RESIDENTIAL USES						
Accessory dwelling units (1)	P	P	P	P	P	X
Accessory living quarters (1)	P	P	P	P	P	X
Accessory use or structure (1) (17) (18) (51)	P	P	P	P	P	P
Adult family home	P (41)	X	ACUP P (41)	ACUP P (41)	ACUP P (41)	ACUP P (41)
Bed and breakfast house	P	ACUP C (34)	ACUP C (34)	ACUP C (34)	ACUP C (34)	X
Caretaker's dwelling	X	X	X	X	ACUP	X
Convalescent home or congregate care facility	ACUP	X	X	C	C	ACUP
Cottage housing developments	P	ACUP	ACUP	ACUP	ACUP	X
Dwelling, duplex	P	P	P (3)	P (3)	P	X
Dwelling, existing	P	P	P	P	P	P
Dwelling, multi-family	ACUP	C	C	C	P	P
Dwelling, single-family attached	P	P	P	P	P	ACUP
Dwelling, single-family detached	P	P	P	P	P	ACUP
Guest house (1)	P	X	P	P	P	X
Home business (1) (52)	P	P	P	P	ACUP	ACUP
Hotel/Motel	X	X	X	X	X	ACUP
Manufactured homes	P (43)	P (43)	P (43)	P (43)	P (43)	X (43)
Mixed use development (44)	X	X	X	X	X	ACUP
Mobile homes	C (43)	C (24) (43)	C (24) (43)	C (24) (43)	C (24) (43)	X (43)
Residential care facility	P	ACUP	ACUP	ACUP	P	P
COMMERCIAL/BUSINESS USES						
Accessory use or structure (1) (17) (51)	P	P	P	P	P	P
Adult entertainment (1)	X	X	X	X	X	X
Ambulance service	X	X	X	X	X	X
Auction house	X	X	X	X	X	X
Auto parts and accessory stores	X	X	X	X	X	X
COMMERCIAL/BUSINESS USES (continued)						

↓
UCR

Automobile rentals	X	X	X	X	X	X
Automobile repair and car washes	X	X	X	X	X	X
Automobile service station (6)	X	X	X	X	X	X
Automobile, recreational vehicle or boat sales	X	X	X	X	X	X
Boat/marine supply stores	X	X	X	X	X	X
Brew pubs	X	X	X	X	X	X
Clinic, medical	X	X	X	X	X	ACUP (37)
Conference center	X	X	X	P	X	X
Custom art and craft stores	X	X	X	X	X	X
Day-care center (14)	C	C	C	C	ACUP	ACUP (37)
Day-care center, family (14)	P	C	P	P	ACUP	ACUP (37)
Drinking establishments	X	X	X	X	X	X
Engineering and construction offices	X	X	X	X	X	X
Espresso stands (58)	X	X	X	X	X	P (37)
Equipment rentals	X	X	X	X	X	X
Farm and garden equipment and sales	X	X	X	X	X	X
Financial, banking, mortgage and title institutions	X	X	X	X	X	X
General office and management services – less than 4,000 s.f.	C (28)	X	X	X	X	ACUP (37)
General office and management services – 4,000 to 9,999 s.f.	X	X	X	X	X	ACUP (37)
General office and management services – 10,000 s.f. or greater	X	X	X	X	X	ACUP (37)
General retail merchandise stores – less than 4,000 s.f.	C (28)	X	X	X	X	ACUP (37)
General retail merchandise stores – 4,000 to 9,999 s.f.	X	X	X	X	X	X
General retail merchandise stores – 10,000 to 24,999 s.f.	X	X	X	X	X	X
COMMERCIAL/BUSINESS USES (continued)						
General retail merchandise stores – 25,000 s.f. or greater	X	X	X	X	X	X
Kennels or Pet day-cares	X	X	X	X	X	X
Kennels, hobby	P	P	P	P	P	X

↓
UCR

Laundromats and laundry services	C (28)	X	X	X	X	ACUP (37)
Lumber and bulky building material sales	X	X	X	X	X	X
Mobile home sales	X	X	X	X	X	X
Nursery, retail	X	X	X	X	X	X
Nursery, wholesale	X	X	X	X	X	X
Off-street private parking facilities	X	X	X	X	X	X
Personal services – skin care, massage, manicures, hairdresser/barber	C	X	X	X	X	ACUP (37)
Pet shop – retail and grooming	X	X	X	X	X	ACUP (37)
Research laboratory	X	X	X	X	X	X
Restaurants	C (28)	X	X	X	X	ACUP (37)
Restaurants, high-turnover	X	X	X	X	X	X
Recreational vehicle rentals	X	X	X	X	X	X
Temporary offices and model homes (27)	P	P	P	P	ACUP	ACUP (37)
Tourism facilities, including outfitter and guide facilities	X	X	X	X	X	X
Tourism terminals, including seaplane and tour-boat terminals	X	X	X	X	X	X
Transportation terminals	X	X	X	X	X	X
Veterinary clinics/Animal hospitals	X	X	X	X	X	C (9) (37)
RECREATIONAL/CULTURAL USES						
Accessory use or structure (1) (17) (51)	P	P	P	P	P	P
Amusement centers	X	X	X	X	X	X
Carnival or Circus	X	X	X	X	X	X
Club, civic or social (12)	ACUP	C (12)	C (12)	C	ACUP	ACUP
Golf courses	ACUP	C	C	C	C	ACUP
Marinas	ACUP	C	C	C	C	C
Movie/Performance theaters, indoor	X	X	X	X	X	X
Movie/Performance theaters, outdoor	X	X	X	X	X	ACUP
Museum, galleries, aquarium, historic or cultural exhibits	X	X	X	X	X	ACUP

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UCR

Parks and open space	P	P	P	P	P	P
Race track, major	X	X	X	X	X	X
Race track, minor	X	X	X	X	X	X
Recreational facilities, private	ACUP	C	C	C	C	ACUP
Recreational facilities, public	P	P	P	P	P	ACUP
Recreational vehicle camping parks	X	C	C	C	X	X
Zoo	X	X	X	X	X	X
INSTITUTIONAL USES						
Accessory use or structure (1) (17) (51)	P	P	P	P	P	P
Government/Public structures	ACUP	ACUP	ACUP	ACUP	ACUP	ACUP
Hospital	X	X	X	X	X	C
Places of worship (12)	C	C	C	C	C	ACUP
Private or public schools (20)	C	C	C	C	C	C
Public facilities, transportation and parking facilities, and electric power and natural gas utility facilities, substations, ferry terminals, and commuter park-and-ride lots (16)	ACUP	C	C	C	C	ACUP
INDUSTRIAL USES						
Accessory use or structure (1) (17) (51)	P	P	P	P	P	P
Air pilot training schools	X	X	X	X	X	X
Assembly and packaging operations	X	X	X	X	X	X
Boat yard	X	X	X	X	X	X
Cemeteries, mortuaries, and crematoriums (10)	C	C	C	C	C	C
Cold storage facilities	X	X	X	X	X	X
Contractor's storage yard	X	X	X	X	X	X
Food production, brewery or distillery	X	X	X	X	X	X
Fuel distributors	X	X	X	X	X	X
Helicopter pads	X	X	X	X	X	X
Manufacturing and fabrication, light	X	X	X	X	X	X
Manufacturing and fabrication, medium	X	X	X	X	X	X
Manufacturing and fabrication, heavy	X	X	X	X	X	X
Manufacturing and fabrication, hazardous	X	X	X	X	X	X
Recycling centers	X	X	X	X	X	X
Rock crushing	X	X	X	X	X	X
Slaughterhouse or animal processing	X	X	X	X	X	X

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UCR

Storage, hazardous materials	X	X	X	X	X	X
Storage, indoor	X	X	X	X	X	X
Storage, outdoor	X	X	X	X	X	X
Storage, self-service	C (40)	C (40)	C (40)	C (40)	C (40)	C
Storage, vehicle and equipment (1)	X (18)	X (18)	X (18)	X (18)	X (18)	X (18)
Top soil production and/or stump grinding	X	X	X	X	X	X
Transshipment facilities, including docks, wharves, marine rails, cranes, and barge facilities	X	X	X	X	X	X
INDUSTRIAL USES (continued)						
Uses necessary for airport operation such as runways, hangars, fuel storage facilities, control towers, etc. (13)	X	X	X	X	X	X
Warehousing and distribution	X	X	X	X	X	X
Wrecking yards and junk yards (1)	X	X	X	X	X	X
RESOURCE LAND USES						
Accessory use or structure (1) (17) (51)	P	P	P	P	P	P
Aggregate extractions sites	X	X	X	X	X	X
Agricultural uses (15)	X	P	P	P	P	P
Aquaculture practices	C	C	C	C	C	C
Forestry	X	P	P	P	P	P
Shellfish/fish hatcheries and processing facilities	X	X	X	X	X	X
Temporary stands not exceeding 200 square feet in area and exclusively for the sale of agricultural products grown on site (27)	X	P (2)	P (2)	P (2)	P (2)	P (2)

17.381.040(B) Commercial and Mixed Use Zones.

Use	Low Intensity Commercial/Mixed Use		High-Intensity Commercial/Mixed Use			
	(NC) (19) (30) (48) (57)	UVC (30) (48) (57)	UTC (48) (57)	HTC (19) (29) (30) (48) (57)	RC (19) (48) (57)	MU (19) (44) (45) (48) (57)
RESIDENTIAL USES						
Accessory dwelling units	X	X	R	X	X	X

Storage, self-service	X	X	X	X	X	X	X
Storage, vehicle and equipment (1)	X	X	X	X (18)	X (18)	X (18)	X
Top soil production, stump grinding	X	X	C	X	C (22)	C (22)	X
Transshipment facilities, including docks, wharves, marine rails, cranes, and barge facilities	X	X	X	X	X	X	X
Uses necessary for airport operation such as runways, hangars, fuel storage facilities, control towers, etc. (13)	X	X	X	X	X	X	X
Warehousing and distribution	X	X	X	X	X	X	X
Wrecking yards and junk yards (1)	X	X	X	X	X	X	X
RESOURCE LAND USES							
Accessory use or structure (1) (17) (51)	P	P	P	P	P	P	P
Aggregate extractions sites	X	P (4)	P	X	C	C	C
Agricultural uses (15)	P	X	P	P	P (7)	P (7)	P (7)
Aquaculture practices	P	X	X	C	C	C	C
Forestry	P	P	P	P	P	P	P
Shellfish/fish hatcheries and processing facilities	X	X	X	X	X	X	X

(Ord. 425 (2009) § 3 (Att. B) (part), 2009; Ord. 420 (2008) § 8 (part), 2008; Ord. 419 (2008) §§ 5 – 9, 2008; Ord. 415 (2008) §§ 142 – 146, 2008; Ord. 405 (2007) § 5 (part), 2007; Ord. 402 (2007) § 2 (part), 2007; Ord. 384 (2007) §§ 9, 10, 2007; Ord. 380 (2007) § 3 (part), 2007; Ord. 367 (2006) § 105 (part), 2006)

17.381.050 Footnotes for zoning use table.

- A. Where noted on the preceding use tables, the following additional restrictions apply:
1. Where applicable subject to Section 17.381.060, Provisions applying to special uses.
 2. Minimum setbacks shall be twenty feet from any abutting right-of-way or property line; provided, however, advertising for sale of products shall be limited to two on-premises signs each not exceeding six square feet.
 3. When located within urban growth areas (except UR), duplexes shall require five thousand square feet of minimum lot area. Duplexes located in the UR zone or outside of urban growth areas shall require double the minimum lot area required for the zone.
 4. No greater than two acres for the purpose of construction and maintenance of a timber management road system, provided the total parcel is at least twenty acres.
 5. Provided public facilities do not inhibit forest practices.
 6. Where permitted, automobile service stations shall comply with the following provisions:
 - a. Sale of merchandise shall be conducted within a building, except for items used for the maintenance and servicing of automotive vehicles;
 - b. No automotive repairs other than incidental minor repairs, battery, or tire changing shall be

allowed;

c. The station shall not directly abut a residential zone; and

d. All lighting shall be of such illumination, direction, and color as not to create a nuisance on adjoining property or a traffic hazard.

7. In rural wooded (RW), rural protection (RP), or rural residential (RR) zones:

a. Animal feed yards and animal sales yards shall be located not less than two hundred feet from any property line; shall provide automobile and truck ingress and egress; and shall also provide parking and loading spaces so designed as to minimize traffic hazards and congestion. Applicants shall show that odor, dust, noise, and drainage shall not constitute a nuisance, hazard, or health problem to adjoining property or uses.

b. All stables and paddocks shall be located not closer than fifty feet to any property line. Odor, dust, noise, flies, or drainage shall not be permitted to create or become a nuisance to surrounding property.

8. A veterinary clinic or animal hospital shall not be located within fifty feet of a lot line in the rural protection (RP) or rural residential (RR) zones. In addition, the applicant may be required to provide additional measures to prevent or mitigate offensive noise, odor, light and other impacts.

9. Veterinary clinics and animal hospitals are allowed, provided a major part of the site fronts on a street and the director finds that the proposed use will not interfere with reasonable use of residences by reason of too close proximity to such residential uses, or by reason of a proposed exterior too different from other structures and character of the neighborhood. All activities shall be conducted inside an enclosed building.

10. A cemetery, crematorium, mausoleum, or columbarium shall have its principal access on a county roadway with ingress and egress so designed as to minimize traffic congestion, and shall provide required off-street parking spaces. No mortuary or crematorium in conjunction with a cemetery is permitted within two hundred feet of a lot in a residential zone.

11. A circus, carnival, animal display, or amusement ride may be allowed through administrative review in all industrial zones and any commercial zones, except neighborhood commercial (NC), for a term not to exceed ninety days, with a written approval of the director. The director may condition such approval as appropriate to the site. The director's decision may be appealed to the hearing examiner.

12. All buildings and activities shall be set back a minimum of fifty feet in FRL, MR, RW, RP, RR or Parks zones and thirty-five feet in all other zones from a side or rear lot line. All such uses shall access directly to a county right-of-way determined to be adequate by the county engineer, and be able to provide access without causing traffic congestion on local residential streets. Any such use shall not be materially detrimental to any adjacent (existing or future) residential development due to excessive traffic generation, noise, light or other circumstances. The director may increase setback, buffer and landscaping standards or impose other conditions to address potential impacts.

13. Public use airports and heliports are allowed only within the airport (A) zone established by this title. Heliports for the purpose of medical emergency facilities may be permitted in certain zones subject to a conditional use permit. All private landing strips, runways, and heliports shall be so designed and oriented that the incidents of aircraft passing directly over dwellings during their landing or taking off patterns is minimized. They shall be located so that traffic shall not constitute a nuisance to neighboring uses. The proponents shall show that adequate controls or measures will be taken to prevent offensive noise, vibrations, dust, or bright lights.

14. In those zones that prohibit residential uses, family day-care centers are only allowed in existing residential structures. Day-care centers shall have a minimum site size of ten thousand square feet and shall provide and thereafter maintain outdoor play areas with a minimum area of seventy-five square feet per child of total capacity. A sight-obscuring fence of at least four feet in height shall be provided, separating the play area from abutting lots. Adequate off-street parking and loading space shall be provided.

15. The number of animals on a particular property shall not exceed one large livestock, three small livestock, five ratites, six small animals, or twelve poultry:

a. Per forty thousand square feet of lot area for parcels one acre or smaller or for parcels five

acres or smaller located within two hundred feet of a lake or year round stream; provided, that when no dwelling unit or occupied structure exists within three hundred feet of the lot on which the animals are maintained the above specifications may be exceeded by a factor of two;

b. Per twenty thousand square feet of area for parcels greater than one acre, but less than or equal to five acres, not located within two hundred feet of a lake or year round stream; provided, that when no dwelling unit or occupied structure exists within three hundred feet of the lot on which the animals are maintained the above specifications may be exceeded by a factor of two;

c. No feeding area or structure or building used to house, confine or feed livestock, small animals, rabbits, or poultry shall be located closer than one hundred feet to any residence on adjacent property located within a rural wooded (RW), rural protection (RP), or rural residential (RR) zone, or within two hundred feet of any residence on adjacent property within any other zone; provided, a pasture (greater than twenty thousand square feet) shall not be considered a feed area.

16. The erection, construction, alteration, or maintenance of overhead or underground utilities by a public utility, municipality, governmental agency, or other approved party shall be permitted in any zone; provided, that any permanent above-ground structures not located within a right-of-way or easement shall be subject to the review of the director. Utility transmission and distribution lines and poles may exceed the height limits otherwise provided for in this title. Water towers which exceed thirty-five feet in height, solid waste collection, transfer and/or handling sites in any zone shall be subject to a conditional use permit. These provisions do not apply to wireless communication facilities, which are specifically addressed in Chapter 17.470.

17. For waterfront properties, accessory structures such as docks, piers, and boathouses may be permitted in the rear yards, shorelands or tidelands subject to the following limitations:

- a. All requirements of the Kitsap County Shoreline Management Master Program must be met;
- b. The building height of any boathouse shall not be greater than fourteen feet above the ordinary high water line;
- c. Covered structures must abut or be upland of the ordinary high water line; and
- d. No covered structure shall have a width greater than twenty-five feet or twenty-five percent of the lot width, whichever is most restrictive.

18. One piece of heavy equipment may be stored in any single-family zone; provided, that it is either enclosed within a permitted structure, or screened to the satisfaction of the director.

19. All development within the Silverdale Design District boundaries must be consistent with the Silverdale Design Standards.

20. Site plans for public schools shall include an area identified and set aside for the future placement of a minimum of four portable classroom units. The area set aside may not be counted towards meeting required landscaping or parking requirements.

21. Outdoor contractor's storage yards accessory to a primary residence shall be limited to not more than ten heavy equipment vehicles or heavy construction equipment. The use shall be contained outside of required setbacks within a contained yard or storage building. The storage yard and/or building shall be screened from adjacent properties with a screening buffer a minimum of twenty-five feet in width and capable of providing functional screening of the use. Minimum lot size shall be one hundred thousand square feet.

22. Stump grinding, soil-combining and composting in rural protection and rural residential zones must meet the following requirements:

- a. The subject property(ies) must be one hundred thousand square feet or greater in size;
- b. The use must take direct access from a county-maintained right-of way;
- c. A fifty-foot natural vegetation buffer must be maintained around the perimeter of the property (ies) to provide adequate screening of the use from neighboring properties;
- d. The subject property(ies) must be adjacent to an industrial zone or a complementary public facility such as a sewage treatment plant or solid waste facility;
- e. The proposed use must mitigate noise, odor, dust and light impacts from the project; and
- f. The use must meet all other requirements of this title.

23. Home businesses located in the forest resource lands (FRL) must be associated with timber production and/or harvest.

24. Mobile homes are prohibited, except in approved mobile home parks.
25. All uses must comply with the Town Development Objectives of Section 17.321B.025.
26. Within the MVC zone, a new single-family dwelling may be constructed only when replacing an existing single-family dwelling. All replacement single-family dwellings and accessory structures within the MVC zone must meet the height regulations, lot requirements, and impervious surface limits of the MVR zone.
27. Subject to the temporary permit provisions of Chapter 17.455.
28. Allowed only within a commercial center limited in size and scale (e.g., an intersection or corner development).
29. The Bethel Road Corridor Development Plan sets forth policies and regulations for development within the Highway Tourist Commercial Zone located along the Bethel Corridor in South Kitsap from SE Ives Mill Road to the Port Orchard city limits. Development within the Bethel Road Corridor Highway Tourist Commercial Zone shall be conducted in a manner consistent with the policies and regulations of the Land Use Element of the Bethel Road Corridor Development Plan.
30. The Design Standards for the Community of Kingston set forth policies and regulations for properties within the downtown area of Kingston. All development within this area must be consistent with these standards. A copy of the Design Standards for the Community of Kingston may be referred to on the Kitsap County web page or at the department of community development front counter.
31. Uses permitted only if consistent with an approved master plan pursuant to Chapter 17.415. Where a master plan is optional and the applicant chooses not to develop one, all uses shown as permitted require an administrative conditional use permit.
32. For properties with an approved master plan, except as described in Section 17.370.025, all uses requiring a conditional use permit will be considered permitted uses.
33. Must be located and designed to serve adjacent area.
34. Bed and breakfast houses with one to four rooms require an administrative conditional use permit; bed and breakfast houses with five or more rooms require a hearing examiner conditional use permit. Bed and breakfast houses serving meals to patrons other than overnight guests require a hearing examiner conditional use permit.
35. The use shall be accessory and shall not occupy more than twenty-five percent of the project area.
36. Requires a conditional use permit when abutting SVR or SVLR zone.
37. Permitted only within a mixed use development or office complex.
38. Customer service-oriented uses over five thousand square feet are prohibited.
39. For the purpose of construction and maintenance of a timber management road system.
40. Self storage facilities must be accessory to the predominant residential use of the property, sized consistently for the number of lots/units being served and may serve only the residents of the single-family plat or multi-family project.
41. Adult family homes serving one to six residents (excluding proprietors) are permitted uses. Adult family homes serving more than six applicable residents (excluding proprietors) require an administrative conditional use permit (ACUP).
42. All business, service repair, processing, storage, or merchandise display on property abutting or across the street from a lot in any residential zone, shall be conducted wholly within an enclosed building unless screened from the residential zone by a sight-obscuring fence or wall.
43. Where a family member is in need of special, frequent and routine care and assistance by reason of advanced age or ill health, a manufactured home or mobile home may be placed upon the same lot as a single-family dwelling for occupancy by the individual requiring or providing such special care subject to the following limitations:
 - a. Not more than two individuals shall be the recipients of special care;
 - b. No rent, fee, payment or charge in lieu thereof may be made for use of the single-family dwelling or manufactured/mobile home as between the recipients or providers of special care;
 - c. The manufactured/mobile home must meet the setback requirements of the zone in which it is situated;
 - d. A permit must be obtained from the director authorizing such special care

manufactured/mobile home. Such permit shall remain in effect for one year and may, upon application, be extended for one-year periods, provided there has been compliance with the requirements of this section;

e. The manufactured/mobile home must be removed when the need for special care ceases; and

f. Placement of the manufactured/mobile home is subject to applicable health district standards for water service and sewage disposal.

44. Certain development standards may be modified for mixed use developments, as set forth in Section 17.382.035 and Chapter 17.400.

45. New or expanded commercial developments that will result in less than five thousand gross square feet of total commercial use within a development site or residential developments of fewer than four dwelling units are permitted outright outside of the Silverdale UGA.

46. Allowed only as an accessory use to a park or recreational facility greater than twenty acres in size.

47. As a hearing examiner conditional use, UM and UH zones adjacent to a commercial zone may allow coordinated projects that include commercial uses within their boundaries. Such projects must meet the following conditions:

a. The project must include a combination of UM and/or UH and commercially zoned land;

b. The overall project must meet the density required for the net acreage of the UM or UH zoned land included in the project;

c. All setbacks from other residentially zoned land must be the maximum required by the zones included in the project;

d. Loading areas, dumpsters and other facilities must be located away from adjacent residential zones; and

e. The residential and commercial components of the project must be coordinated to maximize pedestrian connectivity and access to public transit.

48. Within urban growth areas, all new residential subdivisions, single-family or multifamily developments are required to provide an urban level of sanitary sewer service for all proposed dwelling units.

49. Mixed use development is prohibited outside of urban growth areas.

50. The 2007 Manchester Community Plan, Appendix A -- Manchester Design Standards sets forth policies and regulations for properties within the Manchester Village Commercial (MVC) district. All development within the MVC district must be consistent with these standards.

51. Storage of shipping containers is prohibited unless allowed as part of a land use permit and/or approval. Placement of storage containers allowed only with an approved temporary permit subject to the provisions of Section 17.455.090(I).

52. Aggregate production and processing only. Allowed only if directly connected to an approved surface mining permit approved by the Washington State Department of Natural Resources (DNR).

53. Commercial or industrial uses otherwise prohibited in the zone may be allowed as a component of a home business subject to the requirements of Section 17.381.060(B).

54. The gross floor area shall not exceed four thousand square feet.

55. Auction house and all items to be auctioned shall be fully enclosed within a structure.

56. There shall be no more than six rental vehicles kept on site.

57. When a component of development located within a commercial zone involves the conversion of previously undeveloped land which abuts a residential zone, it shall be treated as a Type II Administrative Decision.

58. In addition to the other standards set forth in Kitsap County Code, espresso stands are subject to the following conditions:

a. Drive aisles/stacking lanes shall be designed to accommodate a minimum of three vehicles per service window/door. Each stacking lane shall be sized measuring eight and one-half feet in width and twenty feet in length, with direct access to the service window. The drive aisles/stacking lanes shall be designed to prevent any vehicles from interfering with public or private roadways, pedestrian circulation, traffic circulation, parking areas or other required development amenities.

b. Subject to provisions set forth in Chapter 17.435, drive aisles and parking areas must also be

paved in urban growth areas and include, at minimum, hard compacted surfaces in rural areas. Such surfaces must be addressed with required drainage facilities. A joint parking agreement shall be required if parking cannot be accommodated on site.

c. All structures must be permanently secured to the ground.

d. Restroom facilities must be available for employees. Portable or temporary restroom facilities shall not be used to meet this requirement.

59. Use is permitted in the South Kitsap Industrial Area only.

60. All development in Illahee shall be consistent with the Illahee Community Plan.

61. Use prohibited in the Waaga Way Town Center area (see the Silverdale Design Standards).

62. General retail merchandise stores greater than one hundred twenty-five thousand square feet in size are prohibited in the Waaga Way Town Center area (see the Silverdale Design Standards). Additional square footage may be allowed for projects greater than twenty-five acres in size.

63. Restaurants, high-turnover that provide drive-thru service must be compatible with the pedestrian focus of the Waaga Way Town Center (see the Silverdale Design Standards). Such businesses shall minimize potential conflicts with pedestrian and bicycle traffic and gathering areas by subordinating the drive-thru service to the overall development design.

(Ord. 425 (2009) § 3 (Att. B) (part), 2009; Ord. 420 (2008) § 8 (part), 2008; Ord. 419 (2008) § 10, 2008; Ord. 415 (2008) § 147; Ord. 405 (2007) § 5 (part), 2007; Ord. 384 (2007) § 11, 2007; Ord. 381 (2007) § 3, 2007; Ord. 367 (2006) § 105 (part), 2006)

17.381.060 Provisions applying to special uses.

A. In addition to other standards and requirements imposed by this title, all uses included in this section shall comply with the provisions stated herein. Should a conflict arise between the requirements of this section and other requirements of this title, the most restrictive shall apply.

B. Uses with additional restrictions:

1. Home Business. Home businesses may be allowed for commercial or industrial uses within residential zones subject to the following conditions:

a. Incidental home business, as defined below, shall be permitted in all residential zones and have no permit required.

(1) Business uses shall be incidental and secondary to the dominant residential use;

(2) The residential character of the building shall be maintained and the business shall be conducted in such a manner as not to give an outside appearance of a business;

(3) The business shall be conducted entirely within the residence;

(4) The residence shall be occupied by the owner of the business;

(5) The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;

(6) No clients or customers shall visit or meet for an appointment at the residence;

(7) No employees or independent contractors are allowed to work in the residence other than family members who reside in the residential dwelling;

(8) No activities that create noise, increase risk of fire, or in any way threaten the safety and tranquility of neighboring residents are permitted;

(9) No more than two pick-ups and/or deliveries per day are allowed, not including normal U.S. mail;

(10) The business shall not occupy more than twenty-five percent of the gross floor area of the residence; and

(11) No signs to advertise the business/occupation shall be allowed on the premises (except attached to mail box not to exceed one square foot).

b. Minor home business, as defined below, shall be permitted in all residential zones subject to approval by the director. Said approval is not transferable to any individual, future property owner or location.

(1) Business uses shall be incidental and secondary to the dominant residential use;

(2) The residential character of the building shall be maintained and the business shall be conducted in such a manner as not to give an outside appearance of a business;

- (3) The residence shall be occupied by the owner of the business;
- (4) The business shall occupy no more than thirty percent of the gross floor area of the residence;
- (5) The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;
- (6) No more than two employees, including proprietors (or independent contractors), are allowed;
- (7) Non-illuminated signs not exceeding four square feet are permitted, subject to a sign permit approved by the director;
- (8) No outside storage shall be allowed; and
- (9) In order to assure compatibility with the dominant residential purpose, the director may require:

- i. Patronage by appointment.
- ii. Additional off-street parking.
- iii. Other reasonable conditions.

c. Moderate home business, as defined below, shall be permitted in RW, RP, RR and URS zones subject to approval by the director. Said approval is not transferable to any individual, future property owner or location.

- (1) Business uses shall be incidental and secondary to the dominant residential use;
- (2) The residential character of the building shall be maintained and the business shall be conducted in such a manner as to moderate any outside appearance of a business;
- (3) The residence shall be occupied by the owner of the business;
- (4) The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;
- (5) No more than five employees (or independent contractors) are allowed;
- (6) Non-illuminated signs not exceeding four square feet are permitted, subject to a sign permit approved by the director; and
- (7) In order to ensure compatibility with the dominant residential purpose, the director may require:

- i. Patronage by appointment.
- ii. Additional off-street parking.
- iii. Screening of outside storage.
- iv. A conditional use permit (required for engine or vehicle repair or servicing).
- v. Other reasonable conditions.

2. Pets and Exotic Animals. Pets, non-traditional pets and exotic animals are subject to the following conditions:

- a. Pets which are kept inside of a primary structure as household pets in aquariums, terrariums, cages or similar containers shall not be limited in number by this title. Other pets, excluding cats, which are kept indoors shall be limited to five;
- b. Pets which are kept outside of the primary structure shall be limited to three per household on lots less than twenty thousand square feet in area, only one of which may be a non-traditional pet; five per household on lots of twenty thousand to thirty-five thousand square feet, only two of which may be non-traditional pets; with an additional two pets per acre of site area over thirty-five thousand square feet up to a limit of twenty;
- c. The keeping or possession of exotic animals is subject to state and federal laws and, other than in a primary structure as described in subsection (B)(3) of this section, shall require approval of the director. Possession of any dangerous animal or potentially dangerous animal is prohibited in all zones except as provided in Section 7.14.010(9); and
- d. No feeding area or structure used to house, confine or feed pets shall be located closer than the minimum yard setbacks for the zone in which they are located. No feeding area or structure used to house, confine or feed non-traditional pets or exotic animals shall be located closer than fifty feet from any residence on adjacent property.

3. Accessory Dwelling Unit (ADU). In order to encourage the provision of affordable

and independent housing for a variety of households, an accessory dwelling unit may be located in

residential zones, subject to the following criteria:

- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;
- b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary;
- c. Only one ADU shall be allowed per lot;
- d. Owner of the property must reside in either the primary residence or the ADU;
- e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller;
- f. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (i.e., garage);
- g. The ADU shall be designed to maintain the appearance of the primary residence;
- h. All setback requirements for the zone in which the ADU is located shall apply;
- i. The ADU shall meet the applicable health district standards for water and sewage disposal;
- j. No mobile homes or recreational vehicles shall be allowed as an ADU;
- k. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking; and
 1. An ADU is not permitted on the same lot where an accessory living quarters exists.
4. Accessory Living Quarters. In order to encourage the provision of affordable housing, accessory living quarters may be located in residential zones, subject to the following criteria:
 - a. Accessory living quarters shall be located within an owner-occupied primary residence;
 - b. Accessory living quarters are limited in size to no greater than fifty percent of the habitable area of the primary residence;
 - c. The accessory living quarters are subject to applicable health district standards for water and sewage disposal;
 - d. Only one accessory living quarters shall be allowed per lot;
 - e. Accessory living quarters are to provide additional off-street parking with no additional street side entrance; and
 - f. Accessory living quarters are not allowed where an accessory dwelling unit exists.
5. Adult Entertainment.
 - a. The following uses are designated as adult entertainment uses:
 - (1) Adult book store;
 - (2) Adult mini-motion picture theater;
 - (3) Adult motion picture theater;
 - (4) Adult novelty store; and
 - (5) Cabaret.
 - b. Restrictions on Adult Entertainment Uses. In addition to complying with the other sections of the Zoning Ordinance, adult entertainment uses shall not be permitted:
 - (1) Within one thousand feet of any other existing adult entertainment use; and/or
 - (2) Within five hundred feet of any non-commercial zone, or any of the following residentially related uses:
 - i. Churches, monasteries, chapels, synagogues, convents, rectories, or church operated camps;
 - ii. Schools, up to and including the twelfth grade, and their adjunct play areas;
 - iii. Public playgrounds, public swimming pools, public parks and public libraries;
 - iv. Licensed day care centers for more than twelve children;
 - v. Existing residential use within a commercial zone.
 - (3) For the purposes of this section, spacing distances shall be measured as follows:
 - i. From all property lines of any adult entertainment use;
 - ii. From the outward boundary line of all residential zoning districts;
 - iii. From all property lines of any residentially related use.
 - c. Signage for Adult Entertainment Uses.
 - (1) In addition to other provisions relating to signage in the Zoning Ordinance, it shall be unlawful for the owner or operator of any adult entertainment use establishment or any other person to

erect, construct, or maintain any sign for the adult entertainment use establishment other than one primary sign and one secondary sign, as provided herein.

(2) Primary signs shall have no more than two display surfaces. Each such display surface shall:

- i. Be a flat plane, rectangular in shape;
- ii. Not exceed seventy-five square feet in area; and
- iii. Not exceed ten feet in height or ten feet in length.

(3) Primary and secondary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

- i. The name of the regulated establishment; and/or
- ii. One or more of the following phrases:
 - (a) "Adult bookstore,"
 - (b) "Adult movie theater,"
 - (c) "Adult cabaret,"
 - (d) "Adult novelties,"
 - (e) "Adult entertainment."

(4) Primary signs for adult movie theaters may contain the additional phrase, "Movie Titles Posted on Premises."

i. Each letter forming a word on a primary or secondary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

ii. Secondary signs shall have only one display surface. Such display surface shall:

- (a) Be a flat plane, rectangular in shape;
- (b) Not exceed twenty square feet in area;
- (c) Not exceed five feet in height and four feet in width; and
- (d) Be affixed or attached to any wall or door of the establishment.

6. Storage of Junk Motor Vehicles.

a. Storage of junk motor vehicles on any property outside of a legally constructed building (minimum of three sides and a roof) is prohibited, except where the storage of up to six junk motor vehicles meets one of the following two conditions:

(1) Any junk motor vehicle(s) stored outdoors must be completely screened by a sight-obscuring fence or natural vegetation to the satisfaction of the director (a covering such as a tarp over the vehicle (s) will not constitute an acceptable visual barrier). For the purposes of this section, "screened" means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way; or

(2) Any junk motor vehicle(s) stored outdoors must be stored more than two hundred fifty feet away from all property lines.

b. Environmental Mitigation Agreement. The owner of any such junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the department of community development (the "department") regarding the property where such vehicle(s) will be located or stored.

(1) An environmental mitigation agreement between a property owner and the department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the department for a one-time fee of \$10.00 per vehicle, the proceeds of which shall be used to assist with clean-up costs associated with the administration of Chapter 9.56.

(2) In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following two preventative measures:

i. Each junk motor vehicle must be drained of all oil and other fluids including, but not limited to, engine crankcase oil, transmission fluid, brake fluid and radiator coolant or antifreeze prior to placing the vehicle on site; or

ii. Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle to collect residual fluids.

iii. Either preventative measure shall require that the owner of such vehicle(s) clean up and

properly dispose of any visible contamination resulting from the storage of junk motor vehicles. The agreement will require the property owner to select one of the two preventative measures and to allow for an initial inspection of the property by the department to assure that the preventative measure has been implemented to the satisfaction of the department. By entering into the agreement, the property owner further agrees to allow the department entry onto the property on an annual basis for re-inspection to assure compliance with the approved agreement. If a property is found to be in compliance with the terms of the agreement for two consecutive inspections, the department may waive the annual inspection requirement. A property owner found to be in violation of the agreement may be issued a civil infraction pursuant to this title and could later be deemed a nuisance in accordance with Chapter 9.56.

7. Model Homes. Notwithstanding any other provision of this code, model homes may be constructed within a subdivision prior to final plat approval by the board. The purpose of the model homes shall be to demonstrate a variety of housing designs together with associated on-site improvements, e.g., landscaping, improved driveway, patios. Model homes shall be subject to the following requirements:

- a. The subdivision shall have received preliminary plat approval;
- b. One model home may be occupied as a temporary real estate office;
- c. A model home may not be occupied as a dwelling unit or sold until the approved final plat is recorded;
- d. The number of model home permits that may be issued for any approved preliminary plat or division thereof shall not exceed six;
- e. If the lots to be used for model home purposes are in a block of two or more contiguous lots, temporary uses may be incorporated onto one or more lots, including temporary offices, parking, parks and playgrounds, subject to the approval of the director, and subject to obtaining a temporary use permit, which shall authorize the temporary uses for a period of one year. The director may extend the temporary use permit for up to two additional periods of six months each;
- f. Lots used for model homes must be clear of restrictions or easements that may be subject to line changes before recording;
- g. Stormwater management facilities must be in place and/or approved for recording. Temporary erosion control must be completed prior to occupancy of a model home;
- h. Roads must be constructed to final alignment and grade such that the building inspector can determine if connecting driveways meet county standards prior to occupancy of a model home;
- i. Permanent or temporary fire flow for the final plat must be approved by the fire marshal, constructed and operational prior to occupancy of a model home; and
- j. Final plat restoration bonds must be posted prior to occupancy of a model home.

8. Guest Houses. Guest house may be located in those zones specified in Section 17.381.040 subject to the following conditions:

- a. Guest houses shall not exceed nine hundred square feet. Dimensions are determined by exterior measurements;
- b. Guest houses shall not include any kitchen plumbing, appliances or provisions for cooking;
- c. Guest houses shall not include more than one bathroom (may be full bathroom);
- d. Guest houses shall not include more than two habitable rooms and a bathroom;
- e. Guest houses shall not be rented separately from the primary residence;
- f. Only one guest house is allowed per parcel;
- g. No guest house is allowed on a parcel with an existing accessory dwelling unit or accessory living quarters;
- h. Newly constructed guest houses must meet the required setbacks for a single-family dwelling consistent with their zone. Legally established, existing structures built before May 7, 1998, may be remodeled into guest houses at their existing setback;
- i. Guest houses must be within one hundred fifty feet of the primary residence;
- j. Guest houses must use the same street entrance as the primary structure;
- k. Guest houses must meet all applicable health district standards for water provision and sewage disposal; and

1. The property owner must record a notice to title outlining these conditions. This notice must be approved by the department and may not be extinguished without the county's written permission.

Ord. 419 (2008) § 11, 2008; Ord. 415 (2008) § 148, 2008; Ord. 381 (2007) § 3, 2007; Ord. 367 (2006) § 105 (part), 2006)

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constitute an acceptable visual barrier). For the purposes of this section, "screened" means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way; or

(2) Any junk motor vehicle(s) stored outdoors must be stored more than two-hundred fifty feet away from all property lines.

b. Environmental Mitigation Agreement. The owner of any such junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the department of community development (the "department") regarding the property where such vehicle(s) will be located or stored.

(1) An environmental mitigation agreement between a property owner and the department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the department for a one-time fee of \$10.00 per vehicle, the proceeds of which shall be used to assist with clean-up costs associated with the administration of Kitsap County Code Chapter 9.56.

(2) In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following two preventative measures:

i. Each junk motor vehicle must be drained of all oil and other fluids including, but not limited to, engine crankcase oil, transmission fluid, brake fluid and radiator coolant or antifreeze prior to placing the vehicle on site; or

ii. Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle to collect residual fluids.

iii. Either preventative measure shall require that the owner of such vehicle(s) clean up and properly dispose of any visible contamination resulting from the storage of junk motor vehicles. The agreement will require the property owner to select one of the two preventative measures and to allow for an initial inspection of the property by the department to assure that the preventative measure has been implemented to the satisfaction of the department. By entering into the agreement, the property owner further agrees to allow the department entry onto the property on an annual basis for re-inspection to assure compliance with the approved agreement. If a property is found to be in compliance with the terms of the agreement for two consecutive inspections, the department may waive the annual inspection requirement. A property owner found to (Ord. 381 (2007) § 3, 2007; Ord. 367 (2006) § 105 (part), 2006)

Chapter 17.382 DENSITY, DIMENSIONS, AND DESIGN

Sections:

<u>17.382.010</u>	Standards established.
<u>17.382.020</u>	Measurement methods.
<u>17.382.030</u>	Design standards.
<u>17.382.035</u>	Development standard modifications or waivers -- Mixed use development.
<u>17.382.040</u>	Tables.
<u>17.382.050</u>	Interpretation of tables.
<u>17.382.060</u>	Urban Residential Density and Dimensions Table.
<u>17.382.070</u>	Urban Commercial and Mixed Use Density and Dimensions Table.
<u>17.382.080</u>	Airport and Industrial Density and Dimensions Table.
<u>17.382.090</u>	Rural Sub-Areas Density and Dimensions Table.
<u>17.382.100</u>	Parks, Rural and Resource Density and Dimensions Table.
<u>17.382.110</u>	Footnotes for tables.

17.382.010 Standards established.

The following tables contain density, dimension standards, and other limitations for the various zones.

Additional development requirements not found in these tables may also apply.
(Ord 367 (2006) § 106 (part), 2006)

17.382.020 Measurement methods.

A. Density. Except as provided in Section 17.382.110(A)(18), density shall be calculated as follows:

In all zones where a maximum or base density is identified, maximum or base density is calculated on gross acreage of the site. In all zones where a minimum density is required, minimum density is calculated on net developable acreage. Net developable acreage is determined by subtracting critical areas and required buffers, streets, and storm water facilities from the gross acreage. If a calculation results in a partial dwelling unit, the partial dwelling unit shall be rounded to the nearest whole number. Less than .5 shall be rounded down. Greater than or equal to .5 shall be rounded up.

B. Setbacks. Setbacks shall be measured perpendicularly from a property line to the nearest vertical wall or other element of a building or structure, not including driveways, patios, pools, sidewalks, landscaping elements or other similar improvements built at or below grade.

C. Height. Except as provided for in Section 17.382.110(A)(14), height shall be measured from a reference datum to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten feet above lowest grade.
2. An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in subsection (1) of this section is more than ten feet above lowest grade.

3. The height of a stepped or terraced building is the maximum height of any segment of the building.

D. Lot Area. Lot area for lots in urban areas shall be calculated by adding the area contained within the lot lines, exclusive of public or private streets or rights-of-way, tidelands, storm water detention-retention facilities, and the panhandle of a flag lot if the panhandle is less than thirty feet in width. Lots in rural areas may compute to the centerline of public or private streets or rights-of-way. Further, rural lots shall be considered five acres if the lot is 1/128 of a section, ten acres if the lot is 1/64 of a section, and twenty acres if the lot is 1/32 of a section.

E. Lot Width and Depth. Lot width shall be measured as the average horizontal distance between the side lot lines. Lot depth shall be measured as the horizontal distance between the midpoint of the front and opposite (usually the rear) lot line. In the case of a corner lot, lot depth shall be the length of its longest front lot line.

F. Lot Coverage and Impervious Surface. Lot coverage shall be calculated by dividing the area of land covered by buildings into the total lot area. Impervious surface coverage shall be calculated by dividing the area of land covered by buildings, structures, and all other impervious surfaces (such as sidewalks, driveways, and patios) into the total lot area.

(Ord 367 (2006) § 106 (part), 2006)

17.382.030 Design standards.

A. In addition to other standards and requirements imposed by this title, all uses except single-family detached dwellings, duplexes and uses located in the RW, FRL, or MR zones shall comply with the provisions stated herein. Should a conflict arise between the requirements of this section and other requirements of this title, the most restrictive shall apply.

B. Building height, buffering and screening modification.

1. The director may require increased landscaping, screening and setbacks to minimize conflicts with adjacent uses.
2. The director may reduce landscaping, screening, and setback requirements:
 - a. Where the nature of established development on adjacent parcels partially or fully provides the screening and buffering which otherwise would be required;
 - b. Where the density of the proposed development is less than that permitted by the zone; or

- c. Where topographical conditions provide natural screening and buffering.
 - 3. A reduction in landscaping/screening requirements may be approved by the director in conjunction with a joint landscape screening proposal submitted by adjacent landowners for their combined boundaries or for an integrated project located within two or more zones.
 - C. Exterior lighting. In all zones, artificial outdoor lighting shall be arranged so that light is directed away from adjoining properties and so that no more than one foot candle of illumination leaves the property boundaries.
 - D. Screening of equipment, storage, and refuse areas.
 - 1. All roof-mounted air conditioning or heating equipment, vents, ducts, or other equipment shall not be visible from any abutting lot, or any public street or right-of-way as feasible. This shall be accomplished through the use of parapet roof extensions, or screened in a manner which is architecturally integrated with the main structures;
 - 2. Locate service areas, outdoor storage areas and other intrusive site features away from neighboring properties to reduce conflicts with adjacent uses. Building materials for use on the same premises may be stored on the parcel during the time that a valid building permit is in effect for construction;
 - 3. Every parcel with a structure shall have a trash receptacle on the premises. The trash receptacle shall comply with adopted public works standards and be of sufficient size to accommodate the trash generated. All receptacles shall be screened on three sides with fencing and/or landscaping as determined appropriate by the director;
 - E. Access and circulation.
 - 1. Pedestrian access shall be accommodated on-site from the public right-of-way, and throughout the site to minimize potential conflicts between pedestrian and vehicular circulation. Pedestrian paths must correspond with state and local codes for barrier-free access. Projects should also integrate walkways into the site plan leading to transit stops within 1,200 feet of the site and incorporate transit stops within the site plan design as appropriate;
 - 2. Developments shall be limited to one ingress/egress per three hundred lineal feet along a public arterial. Small parcels that provide less than two hundred fifty feet of road frontage shall be limited to one parking lot entrance lane and one exit lane. Access points may be required at greater intervals as directed by the director of public works as demonstrated through a traffic analysis. Developments shall attempt to share access with adjoining parcels to minimize access points and potential conflicts from vehicles entering and exiting onto traveled roadways, unless deemed not feasible due to natural constraints such as critical areas or topographical relief, or existing development that precludes the ability to share access. Developments shall attempt to minimize vehicular movement conflicts with public roadways by use of connected frontage lanes.
- (Ord 367 (2006) § 106 (part), 2006)

17.382.035 Development standard modifications or waivers -- Mixed use development.

- A. Development standards for mixed use development may be modified or waived, as set forth in Chapter 17.400 and Title 21 of this code, provided the applicant can demonstrate that the modification or waiver request will result in a project that:
 - 1. Fosters a development pattern focused on the public street;
 - 2. Provides for a compatible mix of multi-family housing and commercial businesses and services;
 - 3. Better meets the intent of the Comprehensive Plan; and
 - 4. Provides for compatibility with surrounding uses and zones.
- B. The following development standards may be modified or waived:
 - 1. Screening requirements in Title 17, provided the modification or waiver complies with the provisions of Section 17.382.030(B);
 - 2. Landscaping requirements in Title 17, provided the modification or waiver complies with the revisions of Section 17.382.030(B);
 - 3. Parking layout, access and dimensional standards in Chapter 17.435, provided the modification or waiver results in a design that provides safe and efficient pedestrian and vehicular circulation;
 - 4. Minimum parking requirements in Chapter 17.435, provided the applicant demonstrates with a traffic and parking impact analysis that any adverse parking impacts resulting from the granting of the

modification or waiver request are adequately mitigated;

5. Lot coverage limitations in Chapter 17.382;
6. Setback requirements in Chapter 17.382;
7. Residential open space requirements in Title 17; and
8. Height restrictions in Chapter 17.382, provided the modification or waiver is consistent with the recommendations of the fire marshal/fire district and results in a decrease in building coverage, an increase in public amenities, and/or a more creative or efficient use of land. The maximum height approved shall not exceed the heights listed in Section 17.382.110(A)(17).

C. The criteria and provisions of this section supersede other variance, modification or waiver criteria and provisions contained in this title.

(Ord 367 (2006) § 106 (part), 2006)

17.382.040 Tables.

There are five (5) separate tables addressing the following general land use categories and zones:

- A. Urban Residential Zones (UCR, UR, UL, UM, UH).
- B. Urban Commercial and Mixed Use Zones (NC, UVC, UTC, HTC, RC, MU).
- C. Industrial Zones (A, BP, BC, IND).
- D. Rural Sub-Areas (MVC, MVLR, MVR; RHTC, RHTR, RHTW; SVC, SVLR, SVR).
- E. Parks, Rural and Resource Zones (FRL, MR, RP, RR, RW, URS).

(Ord. 384 (2007) § 5, 2007; Ord 367 (2006) § 106 (part), 2006)

17.382.050 Interpretation of tables.

Development standards are listed down the left side of the tables and the zones are listed at the top. The table cells contain the minimum and, in some cases, maximum dimensional requirements of the zone. The small numbers (subscript) in a cell indicate additional requirements or detailed information. Those additional requirements can be found in the table footnotes in Section 17.382.110. A cell, marked with NA, indicates there are no specific requirements.

(Ord. 367 (2006) § 106 (part), 2006)

17.382.060 Urban Residential Density and Dimensions Table.

Standard	Urban Low-Density Residential			Urban Medium/High-Density
	UR (5)	UR (6)	UR (7)(8)	UR (9)
Minimum density (du/acre)	4 (19)	1 (18)(3)	4 (19)	10 (19)
Base/Maximum density (du/acre)	9 (19)	5 (18)	9 (19)	18 (19)
Minimum lot size (39)	None	5800 s.f.	3800 s.f.	None
Lot width (feet)	NA	60	60 (20)	0 for multi-family; 60 for single-family
Lot depth (feet)	NA	60	60	0 for multi-family; 60 for single-family
Maximum height (feet) (40)	35	35	35	35 (17)
Maximum Impervious Surface Coverage	NA	50%	NA	65%
Setbacks, Generally (34)(38)				
Front (feet) (41)(42)(43)	10 for single-family, duplex & townhouse; 10 for multi-family adjacent or abutting residential, otherwise 0 (29)	20 (29)	20 (29)	0 for multi-family; 20 for single-family (29)
Side (feet) (42)(43)	5 (28)(29)	5 (29)	5 (29)	0 for multi-family; 5 for single-family (29)
Rear (feet) (42)(43)	5 (28)(29)	5 (29)	5 (29)	0 for multi-family; 5 for single-family (29)

(Ord. 367 (2006) § 106 (part), 2006)

17.382.070 Urban Commercial and Mixed Use Density and Dimensions Table.

Standard	Resource					Rural
	P	FRL	MR	RP	RR	
Base/Maximum density (du/acre)	NA	NA	NA	NA	NA	1 du Max 1
Minimum lot size (39)	NA	40 ac	20 ac (30)	10 ac	5 ac	
Lot width (feet)	NA	140	60 (31)	140	140	
Lot depth (feet)	NA	140	NA	140	140	
Maximum height (feet) (40)	35 (17)	35 (1)	NA	35 (2)	35 (2)	
Setbacks, Generally (34), (35)						
Front (feet) (41) (42) (43)	20	50 (29)	NA	50	50	
Side (feet) (42) (43)	10	20 (29)	NA	20 feet; 5 feet for accessory structures	20 feet; 5 feet for accessory structures	
Rear (feet) (42) (43)	10	20 (29)	NA	20 feet; 5 feet for accessory structures	20 feet; 5 feet for accessory structures	
Setbacks for Agricultural Structures (34)						
Front yard (feet)	50	NA	NA	50	50	
Side yard (feet)	50	NA	NA	50	50	
Rear yard (feet)	50	NA	NA	50	50	

(Ord. 367 (2006) § 106 (part), 2006)

17.382.110 Footnotes for tables.

- A. Where noted on the preceding tables, the following additional provisions apply:
 - 1. Except for those buildings directly associated with timber production and harvest.
 - 2. Except for silos and other uninhabited agricultural buildings.
 - 3. Properties within the urban restricted (UR) zone may subdivide at densities below the minimum required for the zone under the following circumstances:
 - a. The reduced density provides a greater protection for critical areas or environmentally sensitive areas; and
 - b. The intent of the short subdivision or subdivision is to keep the property in the ownership of the immediate family members.
 - 4. If a single lot of record, legally created as of April 19, 1999, is smaller in total square footage than that required under this chapter, or if the dimensions of the lot are less than required, said lot may be occupied by any reasonable use allowed within the zone subject to all other requirements of this chapter. If there are contiguous lots of record held in common ownership, each of the lots legally created as of April 19, 1999, and one or more of the lots is smaller in total square footage than required by this chapter, or the dimensions of one or more of them are less than required, said lots shall be combined to meet the minimum lot requirements for size and dimensions.

5. The *Design Standards for the Community of Kingston* sets forth policies and regulations for properties within the downtown area of Kingston. All development within this area must be consistent with

these standards. A copy of the *Design Standards for the Community of Kingston* may be referred to on the Kitsap County web page or at the Department of Community Development front counter.

6. Building replacements and remodels shall not create in excess of a total of forty percent impervious surface for lot area or more than the total existing impervious surface area, whichever is greater.

7. Excess area from acreage used to support proposed densities but not devoted to residential lots and public improvements such as streets and alleys shall be permanently dedicated and reserved for community open space, park land, and similar uses. For developments proposing densities no greater than one dwelling unit per five acres, the minimum and maximum lot sizes shall not apply, except that existing dwelling units shall be allocated lot area between 3,500 and 7,500 square feet. New proposals may then proceed using the five-acre lot requirements of Section 17.310.030 for the rural residential (RR) zone.

8. Hotels may be developed with four above-ground floors and up to a height not exceeding fifty feet with approval of the fire marshal and relevant fire district.

9. May be reduced to ten feet for residential uses through the administrative conditional use or PBD process.

10. Uses allowed through the conditional use process shall provide minimum side setbacks of 10 feet and minimum rear setbacks of 20 feet.

11. Any newly created lot within the Suquamish Rural Village shall be subject to Chapter 16.48 of this code, *Short Subdivisions*, and must meet the lot requirements below:

a. Lot Requirements.

Minimum Lot Size: 21,780 square feet

Minimum Lot Width: 100 feet

Minimum Lot Depth: 100 feet

b. Setbacks.

Front: 20 feet

Side: 5 feet

Rear: 5 feet

12. Nonconforming Lots in Single Ownership. If a single lot of record, legally created before the adoption of the *Manchester Community Plan*, is less than 8,712 square feet in size or does not meet the dimensional requirements of its zone, the lot may be occupied by any use allowed within the zone subject to all other requirements of this chapter.

Nonconforming Lots in Common Ownership. Contiguous lots of record held in common ownership, each lot legally created before adoption of the *Manchester Community Plan*, must be combined to meet the minimum lot requirements of its zone if one or more of the lots is less than 8,712 square feet in size or does not meet the dimensional requirements of its zone and, at the time of adoption of the *Manchester Community Plan* (March 18, 2002), either 1) a residential structure encumbered more than one of the contiguous lots or 2) two or more of the contiguous lots were vacant. If one or more of the lots is sold or otherwise removed from common ownership after the adoption of the *Manchester Community Plan*, it will not be considered to meet the minimum lot requirements for non-conforming lots in single ownership. Property with two contiguous lots legally created before adoption of the *Manchester Community Plan* with a residential structure entirely on one lot may develop the second lot consistent with applicable zoning.

13. Residential structures within the MVC zone may not exceed 28 feet. Commercial or mixed-use structures within the MVC zone may not exceed two stories, excluding completely underground structures used solely for parking.

14. Within the view protection overlay, the maximum height shall be 28 feet. Height shall be measured from the average elevation of the property's buildable area to the structure's highest point. Buildable area is considered all portions of the property except wetlands and/or geologically hazardous areas. Properties within the view protection overlay zone may build as high as 35 feet under the following circumstances:

a. There is no existing view of downtown Seattle, the Cascade Mountains, Mt. Rainier or the Puget Sound from the subject property or any adjacent property; or

b. The owners of all adjacent properties approve the building height prior to building permit issuance;

or

c. It can be explicitly shown that the structure will not cause the blockage of existing views from any of the adjacent properties.

15. Clustering residential development is encouraged in all development. When clustering development, if a property owner designates 40% of the gross acreage as naturally vegetated open space, he or she may create one additional lot for every five lots clustered. The additional lot may not reduce the naturally vegetated open space to an amount less than 40% of the gross acreage of the development.

16. All properties within the Manchester Village must also meet the requirements of the Storm Water Management Ordinance, Chapters 12.04 through 12.32 of this code. The use of pervious materials and other new technologies may be used in the construction of these areas and structures to reduce the impervious surface calculation.

17. A greater height may be allowed as set forth below and in accordance with the procedures in Title 21 of this code. Such approval must be consistent with the recommendations of the fire marshal/fire district and compatible with surrounding uses and zones. Such approval shall result in a decrease in building coverage, an increase in public amenities, and/or a more creative or efficient use of land. The maximum building height approved by the director shall not exceed:

- a. In the UM, NC, and P zones: 45 feet.
- b. In the UH, HTC, and RC zones: 65 feet.
- c. In the BP, BC, and IND zones: 50 feet.
- d. In the Mixed Use zone:
 - i. Within Silverdale, the maximum height shall be consistent with the design guidelines;
 - ii. Along the Highway 303 corridor, the maximum height shall be 65 feet;
 - iii. Along Perry and National Avenues, the maximum height shall be 45 feet.

18. Density based on net acreage of the property(s) after the removal of critical areas.

19. The maximum number of residential units permitted in the South Kitsap UGA/ULID #6 Sub-Area Plan is 4,172 until such time as a further population allocation is made to the sub-area. All residential development within the sub-area is subject to this density limitation. To ensure that the density limit for the sub-area is not exceeded, the director shall use the county's land information system (LIS) to monitor the number of dwelling units remaining and available for development within the sub-area.

20. The minimum lot width within the ULID #6 Sub-Area shall be 40 feet.

21. 20 feet when abutting a residential zone.

22. Maximum height shall be 30 feet when located within the 200 foot shoreline area.

23. The minimum site setback shall be 75 feet for any yard abutting a residential zone, unless, based upon a site-specific determination, berming and landscaping approved by the director is provided that will effectively screen and buffer the business park activities from the residential zone that it abuts; in which case, the minimum site setback may be reduced to less than 75 feet but no less than 25 feet. In all other cases, minimum site setbacks shall be 20 feet.

24. An individual structure intended for future mixed commercial and residential uses may initially be used exclusively for residential use if designed and constructed for eventual conversion to mixed commercial and residential use once the Urban Village Center or Urban Town Center matures.

25. The *Bethel Road Corridor Development Plan* sets forth policies and regulations for development within the Highway Tourist Commercial Zone located along the Bethel Corridor in South Kitsap from SE Ives Mill Road to the Port Orchard City limits. Development within the Bethel Road Corridor Highway Tourist Commercial Zone shall be conducted in a manner consistent with the policies and regulations of the Land Use Element of the *Bethel Road Corridor Development Plan*.

26. No service road, spur track, or hard stand shall be permitted within required yard areas that abuts a residential zone.

27. Wherever an industrial zone abuts a residential zone, a fifty-foot landscaped setback area shall be provided with plantings, as approved by the director. No structures, open storage, or parking shall be allowed. The plan for landscaping may be approved only if the landscaping is designed to preserve the quality of the residential zone. The minimum lot setback shall be 50 feet for any yard abutting a residential zone unless, based upon a site-specific determination, berming and landscaping or other screening approved by the director is provided, which will effectively screen and buffer the industrial activities from the residential zone which it abuts, in which case the minimum setback may be 25 feet. These setbacks are the minimum setbacks required and may be increased by the director to ensure adequate buffering and compatibility between uses.

28. Unless part of an approved zero-lot line development.

29. 100-foot setback required for single-family buildings abutting FRL or RW zones.
30. No minimum lot size if property is used only for extraction.
31. 330 feet if activity includes any uses in 17.380.020.
32. Existing lots developed with existing single-family residences are permitted to be maintained, renovated and structurally altered. Additions to existing residential structures in order to provide commercial uses are also permitted regardless of density.
33. All development within the Silverdale Downtown Design District boundary must be consistent with the Silverdale Downtown Design Guidelines.
34. Development abutting a street for which a standard has been established by the *Kitsap County Arterial Plan* shall provide a special setback from the centerline of said street or a distance adequate to accommodate one-half of the right-of-way standard established by the arterial plans for the street. The building setback required by the underlying zone shall be in addition to the special setback and shall be measured from the edge of the special setback line. The special setback area shall be treated as additional required yard area and reserved for future street widening purposes.
35. Maximum density and smaller lot sizes may be allowed based upon the designation of a portion of the development as "wooded reserve" and a portion of the development acreage as "permanent open space" under one of the allowed alternatives in Chapter 17.301.
36. For standards applicable to master planned industrial developments and approved industrial parks, see Section 17.370.090.
37. When an airport zone abuts a residential zone, there shall be a minimum of five hundred feet from the end of any runway and the residential zone. Adjacent to airports, the director may impose height restrictions and/or other land use controls, as deemed essential to prevent the establishment of air space obstructions in air approaches to protect the public health, safety and welfare consistent with Federal Aviation Regulations (FAR) Part 77.
38. Cornices, canopies, eaves, belt courses, sills or other similar architectural features, or fireplaces may extend up to twenty-four inches into any required yard area. For setbacks along shorelines, see Chapter 17.450.
39. Unless otherwise stated in this title, if a lot of record, which was legally created as of May 10, 1999, is smaller in total square footage than that required within the zone, or if the dimensions of the lot are less than that required within the zone, said lot may be occupied by any use allowed within that zone subject to all other requirements of the zone. Unless specifically stated within this title, where two or more contiguous lots which are nonconforming to the lot size or dimensions of the zone and are held in common ownership, said lots shall be considered separate legal nonconforming lots and each may be occupied by any use permitted within the zone subject to all other requirements of the zone. If a lot of record was lawfully occupied by two or more single-family residences (excluding accessory dwellings) as of May 10, 1999, the owner of such a lot may apply for a short plat approval in order to permit the segregated sale of such residences, even though some or all of the resulting new lots will have lot areas or dimensions less than required for the zone in which they are located. All other provisions of the Short Subdivision Ordinance (Chapter 16.48 of this code) shall apply to the application.
40. Height limitations set forth elsewhere in this title shall not apply to the following: barns, silos, or other farm buildings and structures, provided they are not less than fifty feet from every lot line; chimneys, spires on places of worship, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, solar energy systems, monuments, fire house towers, masts, aerials, elevator shafts, and other similar projections, and outdoor theater screens, provided said screens contain no advertising matter other than the name of the theater. The proponent seeking exception to the height limitation shall certify that the object being considered under this provision will not shade an existing solar energy system which, by the determination of the director, contributes substantially to the space or water-heating requirements of a building.
41. The following exceptions apply to front yard requirements:
 - a. If there are dwellings on both abutting lots with front yards less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
 - b. If there is a dwelling on one abutting lot with a front yard less than the required depth for the zone, the front yard need not exceed a depth of half-way between the depth of the front yard on the abutting lot and the required front yard depth.
 - c. If a modification to the front-yard requirement is necessary in order to site dwellings in a manner

that maximizes solar access, the director may modify the requirement.

d. On lots with multiple front yards, the front yard setback(s) in which the lot does not receive access may be modified by the director. Based upon topography, critical areas or other site constraints, the director may reduce these front yard setbacks to a minimum of twenty feet for properties requiring fifty feet and five feet for properties requiring twenty feet. The director may not modify front yard setbacks from county arterials or collectors. Such reductions shall not have an adverse impact to surrounding properties.

42. The following exceptions apply to historic lots:

a. Building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel, providing that no structure or portion of such addition may further project beyond the established building line.

b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

43. Any structure otherwise permitted under this section may be placed on a lot or parcel within a required yard area, if the director finds that such a location is necessary because existing sewer systems or roadways make compliance with the yard-area requirements of this title impossible without substantial changes to the site.

44. Outside of the Silverdale Sub-Area, densities required only with mixed use development. (Ord. 382 (2007) § 1, 2007: Ord. 381 (2007) § 4, 2007: Ord. 367 (2006) § 106 (part), 2006)

NEXT

Certain development standards may be modified for mixed use developments, as set forth in Section 17.382.035 and Chapter 17.400 of this code.

45. New or expanded commercial developments that will result in less than 5,000 gross square feet of total commercial use within a development site or residential developments of fewer than four dwelling units are permitted outright outside of the Silverdale UGA.

46. Allowed only as an accessory use to a park or recreational facility.

47. As a hearing examiner conditional use, UM and UH zones adjacent to a commercial zone may allow coordinated projects that include commercial uses within their boundaries. Such projects must meet the following conditions:

a. The project must include a combination of UM and/or UH and commercially-zoned land;

b. The overall project must meet the density required for the net acreage of the UM or UH zoned land included in the project;

c. All setbacks from other residentially-zoned land must be the maximum required by the zones included in the project;

d. Loading areas, dumpsters and other facilities must be located away from adjacent residential zones; and

e. The residential and commercial components of the project must be coordinated to maximize pedestrian connectivity and access to public transit.

48. Within urban growth areas, all new residential subdivisions, single-family or multi-family developments are required to provide an urban level of sanitary sewer service for all proposed dwelling units.

49. Mixed use development is prohibited outside of urban growth areas.

(Ord. 384 (2007) § 11, 2007: Ord. 381 (2007) § 3, 2007: Ord. 367 (2006) § 105 (part), 2006)

**Title 19
CRITICAL AREAS ORDINANCE**

Chapters:

- 19.100 Introduction and Approval Procedures**
- 19.150 Definitions**
- 19.200 Wetlands**
- 19.300 Fish and Wildlife Habitat Conservation Areas**
- 19.400 Geologically Hazardous Areas**
- 19.500 Frequently Flooded Areas**
- 19.600 Critical Aquifer Recharge Areas**
- 19.700 Special Reports**
- 19.800 Appendices**

This page of the Kitsap County Code is current through Ordinance 446 (2010), passed January 11, 2010.

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Chapter 19.100
INTRODUCTION AND APPROVAL PROCEDURES

Sections:

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<u>19.100.110</u>	Applicability.
<u>19.100.115</u>	Relationship to other county regulations.
<u>19.100.120</u>	Review authority.
<u>19.100.125</u>	Exemptions.
<u>19.100.130</u>	Standards for existing development.
<u>19.100.135</u>	Variances.
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<u>19.100.145</u>	Appeals.
<u>19.100.150</u>	Critical area and buffer notice to title.
<u>19.100.155</u>	General application requirements.
<u>19.100.160</u>	Inventory provisions.
<u>19.100.165</u>	Enforcement.

19.100.105 Statement of purpose.

The purpose of the ordinance codified in this title is to identify and protect critical areas as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990). This title supplements the development requirements contained in the various chapters of the Kitsap County Zoning Ordinance (Title 17 of the Kitsap County Code) by providing for additional controls and measures to protect critical areas. This title is adopted under the authority of Chapter 36.70A RCW, Chapter 36.70 RCW and the Kitsap County Code, as now or hereafter amended.

A. Goal Statement. It is the goal of Kitsap County that the beneficial functions and values of critical areas be preserved, and potential dangers or public costs associated with the inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent to or directly affecting such areas, for the benefit of present and future generations.

B. Policy Goals. To implement the purpose and goal stated above, it is the intent of this title to accomplish the following:

1. Conserve and protect the environmental factors that add to the quality of life within the federal, state and county regulations that protect critical areas for the benefit of current and future residents of Kitsap County and the State of Washington.
2. Protect the public against avoidable losses from maintenance and replacement of public facilities, property damage, costs of publicly subsidizing mitigation of avoidable impacts, and costs for public emergency rescue and relief operations.
3. Identify critical areas and their environmental functions and values.
4. Protect critical areas and their functions and values by regulating use and management within these areas and adjacent lands.
5. Preserve the habitat, water quality, and water quantity functions and values of wetlands.
6. Protect water quality by controlling erosion and carefully siting uses and activities that can detrimentally affect stream flows or aquatic habitat quality.
7. Guide development proposals to the most environmentally suitable and stable portion of a development site.
8. Avoid potential damage due to geological hazards or flooding.
9. Preserve natural flood control and stormwater storage.
10. Maintain groundwater recharge and prevent the contamination of groundwater.
11. Prevent cumulative adverse environmental impacts to water, wetlands, fish and wildlife habitats, frequently flooded areas, geologically hazardous areas, and aquifer recharge areas.
12. Whenever mitigation is required, pursue as a preferred option, restoration and enhancement of previously impacted critical areas and their buffers.

(Ord. 351 (2005) § 4, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.110 Applicability.

A. Kitsap County shall not grant any permit, license or other development approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, nor shall any person alter the condition of any land, water or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this title, except in compliance with the provisions of this title. Failure to comply with the provisions of this title shall be considered a violation and subject to enforcement procedures as provided for in this title.

B. This title applies to all uses and activities within areas or adjacent to areas designated as regulated critical areas unless otherwise exempt. The following permits and approvals shall be subject to and coordinate with the requirements of this title: site development activity permit; site plan approval; subdivision or short subdivision; building permit; performance based development, shoreline substantial development; variance; conditional use permit; certain forest practice permits (Class IV General, Class III Conversion Option Harvest Plans); other permits leading to the development or alteration of land; and rezones if not combined with another development permit.

C. Non-project actions including, but not limited to, rezones, annexations, and the adoption of plans and programs, shall be subject to critical area review.

D. This title does not require any permit in addition to those otherwise required by county ordinances. This title is an overlay to the Zoning Ordinance; while it does not require any additional permits, activities regulated by the Zoning Ordinance are also subject to critical area requirements.

E. The development standards and other requirements of this title shall be applied to uses and activities for any permit review or approval process otherwise required by county ordinances.

F. Uses and activities in critical areas or their buffers for which no permit or approval is required by any other county ordinance remain subject to the development standards and other requirements of this title. While this title does not require a review or approval process for such uses and activities, they remain subject to the title.

G. For the purpose of this title, the area of review is defined as the critical area and its largest potential buffer or setback. This defines the area of review only. Refer to Chapters 19.200 through 19.600 for specific development standards.

(Ord. 351 (2005) § 5, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.115 Relationship to other county regulations.

When any provision of any other chapter of the Kitsap County Code conflicts with this title, that which provides the most protection to the critical area, as determined by the department, shall apply.

Applications for permits and approvals are subject to the provisions of this title as well as to other provisions of state and county law, which include, but are not limited to the following:

- A. Title 2, Government;
 - B. Title 9, Health, Welfare and Sanitation;
 - C. Title 12, Storm Water Management;
 - D. Title 14, Buildings and Construction;
 - E. Title 15, Flood Hazard Areas;
 - F. Title 16, Land Division and Development;
 - G. Title 17, Zoning;
 - H. Title 18, Environment;
 - I. Title 21, Land Use and Development Procedures;
 - J. Title 22, Shoreline Management Master Program;
 - K. RCW 36.70A, Growth Management Act;
 - L. RCW 90.58, Shoreline Management Act;
 - M. RCW 43.21C, State Environmental Policy Act;
- (Ord. 351 (2005) § 6, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.120 Review authority.

A. In evaluating a request for a development proposal regulated by this title, it shall be the responsibility of the department to determine the following:

1. The nature and type of critical area and the adequacy of any special reports required in applicable sections of this title;
2. Whether the development proposal is consistent with this title, by granting, denying or conditioning projects;

3. Whether proposed alterations to critical areas are appropriate under the standards contained in this title, or whether it is necessary for the applicant to seek a variance or other exception; and

4. Whether the protection mechanisms and the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes and objectives of this title, and if not, condition the permit or approval accordingly.

B. The department shall have the administrative authority to reduce buffers and building setbacks as outlined in specific critical area sections of this title.

C. Where projects have been approved with conditions to protect critical areas under previous protection policies in effect prior to the ordinance codified in this title, those conditions will apply. Nevertheless, this title shall apply in cases where the department determines, based on review of current information, that the prior conditions will result in a detrimental impact to a critical area.

D. Time Limitations.

1. Expiration of Approval.

a. Approvals granted under this title shall be valid for the same time period as the underlying permit (e.g. preliminary plat, site development, building permit). If the underlying permit does not contain a specified expiration date, then approvals granted under this title shall be in writing and shall be valid for a period of three years from the date of issue, unless a longer period is specified by the department.

b. The approval shall be considered null and void upon expiration, unless a time extension is requested and granted as set forth in subsection (2) below.

2. Time Extensions.

a. The applicant or owner(s) may request in writing a one-year extension of the original approval.

b. Knowledge of the expiration date and initiation of a request for a time extension is the responsibility of the applicant or owner(s).

c. A written request for a time extension shall be filed with the department at least 60 days prior to the expiration of the approval.

d. Upon filing of a written request for a time extension, a copy shall be sent to each party of record together with governmental departments or agencies that were involved in the original approval process. By letter, the department shall request written comments be delivered to the department within 30 days of the date of the letter.

e. Prior to the granting of a time extension, the department may require a new application(s), updated study(ies), and fee(s) if:

(1) The original intent of the approval is altered or enlarged by the renewal;

(2) The circumstances relevant to the review and issuance of the original approval have changed substantially; or

(3) The applicant failed to abide by the terms of the original approval.

f. If approved, the one-year time extension shall be calculated from the date of granting said approval.

g. The department has the authority to grant or deny any requests for time extensions based upon demonstration by the applicant of good cause for the delay. Time extensions shall be granted in writing and documented in the file.

(Ord. 351 (2005) § 8, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.125 Exemptions.

The following activities are exempt from the requirements of this title:

A. Emergencies that threaten the public health, safety and welfare. An "emergency" is an unanticipated and immediate threat to public health, safety, or the environment that requires action within a time too short to allow compliance with this title.

B. Pre-existing and ongoing agricultural activities on lands containing critical areas. For the purpose of this title, "existing and ongoing" means that the activity has been conducted and/or maintained within the past five years.

C. Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons, and livestock water ponds, provided that such activities shall not involve conversion of any wetland not currently being used for such activity.

D. Structural alterations to buildings, permitted under the Kitsap County Code that do not alter the structural footprint or introduce new adverse impacts to an adjacent critical area.

E. Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation above the ground.

F. Forest Practices conducted pursuant to RCW 76.09, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP).
(Ord. 351 (2005) § 7, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.130 Standards for existing development.

A. Shorelines. This section incorporates by reference the existing development standards provided in Title 22 of the Kitsap County Code (Shoreline Management) applicable to development on shorelines of the state (WAC 173-27-080), as now or hereafter amended.

B. Existing Nonconforming Structures.

1. "Existing nonconforming development" means a development that was lawfully constructed, approved or established prior to the effective date of the ordinance codified in this title, but does not conform to present regulations or standards of this title.

2. Structures in existence on the effective date of the ordinance codified in this title that do not meet the setback or buffer requirements of this title may be remodeled or reconstructed provided that the new construction or related activity does not further intrude into the critical area or its associated buffers.

3. New construction or related activity connected with an existing single family dwelling shall not be considered further intruding into an associated buffer so long as the footprint of the structure lying within the critical area or its buffer is not increased by more than twenty (20%) percent and no portion of the new structure is located closer to the critical area than the existing structure; and provided further that reconstruction or remodeling meets the requirements of Title 15 of the Kitsap County Code (Flood Hazard Areas) and shall only be allowed if it does not create or continue a circumstance where personal or property damage is likely due to the nature of the critical area.

4. Nonconforming structures which are damaged or destroyed by fire, explosion, or other casualty, may be restored or replaced if reconstruction is commenced within 24 months of such damage. The reconstruction or restoration shall not serve to expand, enlarge or increase the nonconformity except as allowed through the provisions of this section.

C. Danger Tree Removal. Where a threat to human life or property is demonstrated, the department may allow removal of danger or hazard trees subject to the following criteria: (1) tree removal is the minimum necessary to balance protection of the critical area and its buffer with protection of life and property; and (2) the critical area or its buffer shall be replanted as determined by the department and the property owner. The department shall coordinate review with the property owner and Washington State Department of Fish and Wildlife as determined necessary to assure habitat protection. The department may require the applicant to consult with a professional forester or a certified arborist prior to tree removal. Danger tree abatement can sometimes be achieved by felling the tree or topping the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump for wildlife habitat.

(Ord. 351 (2005) § 9, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.135 Variances.

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

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 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 ordinance shall not be the sole basis for the granting of a variance.

2. The special circumstances referred to in subsection 1 above are not the result of the actions of the current or previous owner.

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.

4. The granting of the variance is the minimum necessary to accommodate the permitted use.

5. No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.)

6. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.

B. Kitsap County shall conduct a public hearing on all variance applications pursuant to the review process and notice requirements established in Title 21 of the Kitsap County Code (Land Use and Development Procedures), as now or hereafter amended.

C. Except when application of this title would deny all reasonable use of the property (Section 19.100.140), an applicant who seeks an exception from the standards and requirements of this title shall pursue relief by means of a variance as provided for in this title.

D. Requests for variances shall include the application requirements of Section 19.100.155 (Application Requirements, General), or Section 19.200.215 (Wetland Review Procedures), whichever is applicable.

E. The department shall review administrative buffer reductions based on the criteria and standards referenced in this chapter.

F. The department may grant variances for public utilities to the substantive or procedural requirements of this title when:

1. Application of this title to the utility's activities would be inconsistent with the Comprehensive Plan and the Utility's public service obligations;

2. The proposed utility activity does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and

3. Any alterations permitted to these critical areas shall be the minimum necessary to reasonably accommodate the proposed utility activity and mitigate when feasible.

(Ord. 351 (2005) § 10, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.100.140 Reasonable use exception.

If the application of this title would deny all reasonable use of the property, the applicant may apply for a reasonable use exception pursuant to this section:

A. The applicant shall apply to the department, and the department shall prepare a recommendation to the hearing examiner. The applicant may apply for a reasonable use exception without first having applied for a variance if the requested exception includes relief from standards for which a variance cannot be granted pursuant to the provisions of the section. The property owner and/or applicant for a reasonable use exception has the burden of proving that the property is deprived of all reasonable uses. The examiner shall review the application and shall conduct a public hearing pursuant to the provisions of Title 21 of the Kitsap County Code (Land Use and Development Procedures). The examiner shall make a final decision based on the following criteria:

1. The application of this title would deny all reasonable use of the property;

2. There is no other reasonable use which would result in less impact on the critical area;

3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this title and the public interest, and does not conflict with the Endangered Species Act or other relevant state or federal laws; and

4. Any alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property.

B. Any authorized alterations of a critical area under this section shall be subject to conditions established by the examiner including, but not limited to, mitigation under an approved mitigation plan. (Ord. 351 (2005) § 11, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.100.145 Appeals.

A. Appealable Actions. The following decisions or actions required by this title may be appealed:

1. Any decision to approve, condition or deny a development proposal, or any disagreement on conclusions, methodology, rating systems, etc. between the department and such person or firm which prepares special reports pursuant to Chapter 19.700 may be appealed by the applicant or affected party to the Kitsap County hearing examiner.

2. Any decision to approve, condition or deny a variance application by the department may be appealed by the applicant or affected party to the Kitsap County hearing examiner.

3. Any decision to require, or not require a special report pursuant to this title may be appealed by the applicant or affected party to the Kitsap County hearing examiner.

B. Appeal Process. The following process shall be followed in submitting an appeal and taking action:

1. Any appeal regarding a decision to require, or not require a special report shall be made within fourteen calendar days of the decision. The appeal shall be in writing stating the basis that such reports should or should not be required for the proposed development. The hearing examiner may (a) remand the decision back to the department requesting that specific issues be reconsidered; (b) modify the decision of the department; or (c) uphold the decision of the department.

2. Any appeal regarding a decision to approve, condition or deny a development proposal based on this title, or any decision to approve, condition or deny a variance, shall be made within fourteen calendar days of the decision. A fee in an amount as established under the Kitsap County Code shall be paid to the department at the time an appeal is filed. The appeal shall be in writing and shall state specifically the issues that are the subject of the appeal, focusing on the specific inadequacies of the particular decision under dispute. The hearing examiner may (a) remand the decision back to the department requesting that specific issues be reconsidered; (b) modify the decision of the department; or (c) uphold the decision of the department.

3. Kitsap County shall not issue any permit, license or other development approval on the development proposal site pending the outcome of the appealed decision.
(Ord. 351 (2005) § 12, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.150 Critical area and buffer notice to title.

Project applicants shall sign a "Critical Area and Buffer Notice to Title" (See Chapter 19.800, Appendix "E") to be filed with the Kitsap County auditor on all development proposals subject to this title and containing any critical area or its buffer. After review of the development proposal, the department will condition critical area development in accordance with this title. These standards will be identified on the approved notice to title, which shall run with the land in accordance with this title. This notice shall serve as an official notice to subsequent landowners that the landowner shall accept sole responsibility for any risk associated with the land's identified critical area.

Notice to title may not be required in cases where the clearing or building footprint for minor new development will not adversely impact a critical area or its buffer (i.e., normal repair and maintenance, not adjacent to a critical area). Lack of such notice on a specific parcel does not indicate that Kitsap County has determined critical areas or buffers do not exist on that parcel.
(Ord. 351 (2005) § 13, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.100.155 General application requirements.

A. All applicants for major new development are required to meet with the department prior to submitting an application subject to Title 17 of Kitsap County Code; all applicants for construction of a single-family dwelling are encouraged to do so. The purpose of this meeting is to discuss Kitsap County's zoning and applicable critical area requirements, to review any conceptual site plans prepared by the applicant and to identify potential impacts and mitigation measures. Such conference shall be for the convenience of the applicant, and any recommendations shall not be binding on the applicant or the county.

B. The applicant must comply with the standards and requirements of this title as well as standards relating to Title 12 of the Kitsap County Code (Stormwater Management) set forth by the department, as now or hereafter amended. To expedite the permit review process, the department shall be the lead agency on all work related to critical areas. Development may be prohibited in a proposed development site based on criteria set forth in this title; the applicant should first determine whether this is the case before applying for permits from the department.

C. Application for development proposals, reasonable use exception or variances regulated by this title or for review of special reports shall be made with the department by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent as listed in Chapter 19.700 (Special Reports).

D. A filing fee in an amount established under the Kitsap County Zoning Ordinance shall be paid to the department at the time an application for a permit relating to a critical area or a special report review is filed.

E. Applications for any development proposal subject to this title shall be reviewed by the department for completeness and consistency or inconsistency with this title.

F. At every stage of the application process, the burden of demonstrating that any proposed development is consistent with this title is upon the applicant.

G. All site plan applications for development proposals subject to this title shall include a site plan drawn to scale identifying locations of critical areas, location of proposed structures and activities,

including clearing and grading and general topographic information as required by the department. If the department determines that additional critical areas are found on the subject property, the applicant shall amend the site plan to identify the location of the critical area. When it is determined that regulated activities subject to the provisions of the State Environmental Policy Act (SEPA) as implemented by Title 18 of the Kitsap County Code (Environment) are likely to cause a significant, adverse environmental impact to the critical areas identified in this title that cannot be adequately mitigated through compliance with this title, environmental assessment and mitigation measures may be imposed consistent with the procedures established in Title 18 of the Kitsap County Code (Environment).

H. Prior to taking action on a zone reclassification or a Comprehensive Plan Amendment, the proponent shall complete an environmental review to confirm the nature and extent of any critical areas on or adjacent to the property; determine if the subsequent development proposal would be consistent with this title; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any SEPA threshold determination. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposal if the impacts are significant and cannot be mitigated.

(Ord. 351 (2005) § 14, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.100.160 Inventory provisions.

The approximate location and extent of mapped critical areas within Kitsap County are shown on the maps adopted as part of this title, and incorporated herein by this reference. These maps shall be used only as a general guide for the assistance of the department and the public; the type, extent and boundaries may be determined in the field by a qualified specialist or staff person according to the requirements of this title. In the event of a conflict between a critical area location shown on the county's maps and that of an on-site determination, the on-site determination will apply.

Kitsap County will review map inventory information of all critical areas as it becomes available. Mapping will include critical areas that are identified through site specific analysis by local, state and federal agencies, the Kitsap Conservation District, tribal governments, citizen groups and other sources. (Ord. 351 (2005) § 15, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.100.165 Enforcement.

A. Authorization. The director is authorized to enforce this title, and to designate county employees as authorized representatives of the department to investigate suspected violations of this title, and to issue orders to correct violations and notices of infraction.

B. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this title, or when the director or his/her designee has reasonable cause to believe that a condition exists on property which is contrary to or in violation of this title, the director or his/her designee may enter the property to inspect, provided that if the property is occupied that the inspector's credentials be presented to the occupant and entry requested. If the property is unoccupied, the director or his/her designee shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the director or his/her designee shall have recourse to the remedies provided by law to secure entry.

C. Stop Work Orders. Whenever any work or activity is being done contrary to the provisions of this title the director or his/her designee may order the work stopped by notice in writing, served on any persons engaged in the doing or causing such work to be done, or by posting the property, and any such persons shall forthwith stop such work or activity until authorized by the director or his/her designee to proceed.

D. Penalties. The violation of any provision of this title shall constitute a Class I civil infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued, or permitted. Infractions shall be processed in accordance with the provisions of Chapter 2.116 of Kitsap County Code, as now or hereafter amended.

E. Imminent and Substantial Dangers. Notwithstanding any provisions of these regulations, the director or his/her designee may take immediate action to prevent an imminent and substantial danger to the public health, welfare, safety or the environment by the violation of any provision of this title.

F. Other Legal or Equitable Relief. Notwithstanding the existence or use of any other remedy, the director or his/her designee may seek legal or equitable relief to enjoin any acts or practices or abate any conditions, which constitute or will constitute a violation of the provisions of this title.

(Ord. 351 (2005) § 16, 2005: Ord. 217 (1998) § 3 (part), 1998)

This page of the Kitsap County Code is current through Ordinance 446 (2010), passed January 11, 2010.

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**Chapter 19.150
DEFINITIONS**

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19.150.050 Generally.

As used in this title, the following terms have the meanings given in this chapter.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.100 Adjacent.

“Adjacent” means an area of review as defined by Section 19.100.110(G).
(Ord. 351 (2005) § 17 (part), 2005)

19.150.105 Agricultural activities.

“Agricultural activities” means activities related to vegetation and soil management, such as tilling of soil, control of weeds, control of plant diseases and insect pests, soil maintenance and fertilization as well as animal husbandry.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.110 Alteration.

“Alteration” means a human-induced action which changes the existing condition of a critical area. Alterations include but are not limited to: grading; grubbing; dredging; channelizing; cutting, clearing, relocating or removing vegetation, except noxious weeds identified by the Washington State Department of Agriculture or the Kitsap County Cooperative Extension; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; modifying for surface water management purposes; or any other human activity that changes the existing vegetation, hydrology, wildlife or wildlife habitat.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.115 Anadromous fish.

“Anadromous fish” means fish whose life cycle includes time spent in both fresh and salt water.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.120 Applicant.

“Applicant” means the person, party, firm, corporation or legal entity, or agent thereof, that proposes a development of property in Kitsap County.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.125 Aquaculture practices.

“Aquaculture practices” means the harvest, culture or farming of food fish, shellfish, or other aquatic plants and animals including fisheries enhancement and the mechanical harvesting of shellfish and hatchery culture.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.130 Aquifer.

“Aquifer” means a saturated body of rock, sand, gravel or other geologic material that is capable of storing, transmitting and yielding water to a well.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.135 Aquifer recharge.

“Aquifer recharge” means the process by which water is added to an aquifer. It may occur naturally by the percolation (infiltration) of surface water, precipitation, or snowmelt from the ground surface to a depth where the earth materials are saturated with water. The aquifer recharge can be augmented by “artificial” means through the addition of surface water (e.g., land application of wastewater or storm water) or by the injection of water into the underground environment (e.g., drainfields and drywells).

(Ord. 351 (2005) § 17 (part), 2005)

19.150.140 Aquifer recharge area.

“Aquifer recharge area” means those areas overlying aquifer(s) where natural or artificial sources of water can move downward to an aquifer(s).

(Ord. 351 (2005) § 17 (part), 2005)

19.150.145 Aquifer vulnerability.

“Aquifer vulnerability” means the combined effect of hydrogeological susceptibility to contamination and the contamination loading potential as indicated by the type of activities occurring on a project area.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.147 Aquitard.

“Aquitard” means an underground geologic layer that has low permeability.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.150 Bank stabilization.

“Bank stabilization” means lake, stream and open water shoreline modification including vegetation enhancement, used for the purpose of retarding erosion, protecting channels or shorelines, and retaining uplands.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.155 Best available science.

“Best available science” means scientifically valid information in accordance with WAC 365-195-905, as now or hereafter amended, that is used to develop and implement critical areas policies or regulations.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.160 Best management practices (BMPs).

“Best management practices” or “BMPs” means conservation practices (physical, structural and/or managerial) or systems of practices and management measures that:

A. Control soil loss and reduce water quality degradation caused by nutrients, pathogens, bacteria, toxic substances, pesticides, oil and grease, and sediment; and

B. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.165 Bog.

“Bogs” are a type of wetland typically composed of acidic, low nutrient soils and waters, high organic matter and that support plants specifically adapted to such conditions that are not commonly found elsewhere. Bogs may have an overstory of spruce or shore pine and may be associated with open water.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.170 Buffer.

“Buffer” means a non-clearing native vegetation area which is intended to protect the functions and values of critical areas.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.172 Buffer, standard.

“Standard buffer” means the buffer width established by each chapter of this title before any buffer adjustments are applied.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.175 Candidate species (state-listed).

“Candidate species (state-listed)” means species under review by the Department of Fish and Wildlife (WDFW) for possible listing as endangered, threatened or sensitive. A species will be considered for state-candidate designation if sufficient scientific evidence suggests that its status may meet criteria defined for endangered, threatened, or sensitive in WAC 232-12-297 as now or hereafter amended. Currently listed state-threatened or state-sensitive species may also be designated as a state-candidate species if their status is in question. State-candidate species will be managed by the Department of Fish and Wildlife, as needed, to ensure the long-term survival of populations in Washington. They are listed in WDFW, Policy 4802.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.180 Channel migration zone (CMZ).

“Channel migration zone” or “CMZ,” as defined by WAC 173-26-020(6), as now or hereafter amended, means the area along the Tahuya or Union Rivers or streams within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.185 Clearing.

“Clearing” means the destruction, disturbance or removal of vegetation by physical, mechanical, chemical or other means.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.190 Compensation.

“Compensation” means replacement of project-induced critical area (e.g., wetland) losses of acreage or functions.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.195 Creation.

“Creation” means the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will support a wetland.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.200 Conversion option harvest plan (COHP).

As it relates to forest practices, a “COHP” means a plan for landowners who want to harvest their land but wish to maintain the option for conversion pursuant to WAC 222-20-050. “Conversion” to a use other than commercial timber operation shall mean a bona fide conversion to an active use which is incompatible with timber growing.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.210 Critical aquifer recharge areas.

“Critical aquifer recharge areas” means those land areas that contain hydrogeologic conditions that facilitate aquifer recharge and/or transmitting contaminants to an underlying aquifer.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.215 Critical areas.

“Critical areas” means those areas identified as: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) geologically hazardous areas; and (e) frequently flooded areas.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.220 Critical area protection easement.

“Critical area protection easement” means an agreement conveyed through a notice to title, or shown on the face of a plat or site plan, for the purpose of perpetual or long-term conservation.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.225 Critical facilities.

“Critical facilities” means those facilities necessary to protect the public health, safety and welfare and which are defined as essential facilities or Category III and IV buildings in accordance with Chapter 14.04 of this code, the Kitsap County Building and Fire Code. These facilities include but are not limited to schools, hospitals, police stations, fire departments and other emergency response facilities, and nursing homes. Critical facilities also include sites of hazardous material storage or production.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.230 Danger trees.

“Danger trees” means any tree of any height, dead or alive, that presents a hazard to the public because of rot, root stem or limb damage, lean or any other observable condition created by natural process or man-made activity consistent with WAC 296-54-505.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.235 Debris.

See “Refuse.”
(Ord. 351 (2005) § 17 (part), 2005)

19.150.240 Department.

“Department” means the Kitsap County Department of Community Development.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.245 Detention facilities.

“Detention facilities” means stormwater facilities, including all the appurtenances associated with their designed functions, maintenance and security that are designed to store runoff while gradually releasing it at a pre-determined controlled rate.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.250 Development proposal site.

“Development proposal site” means the legal boundaries of the parcel or parcels of land on which an applicant has applied for authority from Kitsap County to carry out a development proposal.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.255 Director.

“Director” means the director of the Kitsap County department of community development or a duly authorized designee in the department.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.260 Draining (related to wetland).

“Draining” means any human activity that diverts or reduces wetland groundwater and/or surface water sources.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.265 Endangered species (state listed).

“Endangered species” means a species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state. Endangered species

are legally designated in WAC 232-12-014, as now or hereafter amended.(Ord. 351 (2005) § 17 (part), 2005)

19.150.270 Enhancement.

“Enhancement” means actions performed to improve the condition of an existing degraded critical area (e.g., wetlands or streams) such that the functions or values are of a higher quality, provided that this activity does not significantly degrade another existing function or value.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.275 Erosion.

“Erosion” means the process whereby the land surface is worn away by the action of water, wind, ice or other geologic agents, by processes such as gravitational creep or events such as landslides caused by natural or manmade impacts.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.280 Erosion hazard areas.

“Erosion hazard areas” means land characterized by any of the soil types identified by the U.S. Department of Agriculture Natural Resources Conservation Service as “highly erodible land.” This designation pertains to water erosion and not wind erosion. These areas may not be highly erodible until or unless the soil is disturbed by activities such as clearing or grading.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.285 Excavation.

“Excavation” means the mechanical removal of earth material.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.290 Existing and ongoing agriculture.

“Existing and ongoing agriculture” means those activities conducted within the last five years on lands defined in RCW 84.34.020(2) or defined as agricultural activities in this title. For example, the operation and maintenance of existing farm and stock ponds or drainage ditches; operation and maintenance of ditches, irrigation systems including laterals, canals, or irrigation drainage ditches; changes between agricultural activities, such as rotating crops or grasses used for grazing; and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas, can be “existing and ongoing agriculture.” The alteration of the contour of wetlands or streams by leveling or filling other than that which results from normal cultivation, or draining of wetlands shall not be considered normal or necessary farming or ranching activities.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.295 Exotic.

“Exotic” means any species of plant or animal that is not indigenous (native) to an area.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.300 Extraordinary hardship.

“Extraordinary hardship” means where the strict application of this title and/or other programs adopted to implement this title by the regulatory authority would prevent all reasonable use of the parcel.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.305 Farm pond.

“Farm pond” means an open-water habitat of less than five acres and not contiguous with a stream, river, lake or marine water created from a non-wetland site in connection with agricultural activities.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.310 Feeder bluff.

“Feeder bluff” means an eroding and/or retreating shore bluff that is part of natural coastal processes yielding sediment to area beaches.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.315 Fen.

“Fen” means a wetland with peat soils sixteen inches or more in depth, or any depth of organic soil over bedrock, and vegetation such as certain sedges, hardstem bulrush and cattails. Fens may have an overstory of spruce and may be associated with open water.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.320 Filling or fill.

“Filling” or “fill” means a deposit of earth or other natural or manmade material placed by artificial means, including, but not limited to, soil materials, debris, or dredged sediments.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.325 Fish and wildlife habitat.

“Fish and wildlife habitat” means those areas identified as being of critical importance to the maintenance of fish, wildlife, and plant species, including: areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; commercial and recreational shellfish areas; kelp and eelgrass beds, forage fish spawning areas; naturally occurring ponds and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams or rivers planted with game fish by a government or tribal entity, or private organization; State natural area preserves and natural resource conservation areas.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.330 Fisheries biologist.

“Fisheries biologist” means a person with experience and training in fisheries within the past ten years who is able to submit substantially correct reports on fish population surveys, stream surveys and other related data analyses of fisheries resources. “Substantially correct” is interpreted to mean that technical or scientific errors, if any, will be minor and do not delay or affect the site plan review process. Qualifications of a fisheries biologist include:

- A. Certification by the American Fisheries Society; or
 - B. A Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and two years of professional fisheries experience; or
 - C. Five or more years professional experience as a practicing fisheries biologist with a minimum three years professional field experience.
- (Ord. 351 (2005) § 17 (part), 2005)

19.150.335 Floodplain.

“Floodplain” means the floodway and associated special flood hazard areas having the potential to flood once every one hundred years, or having a one percent chance of being equaled or exceeded in any given year. The regulatory flood hazard areas, floodplains and floodways are depicted on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) for Kitsap County.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.340 Floodway.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.345 Forage fish.

“Forage fish” means anchovy, herring, sand lance and smelt.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.350 Forest practices.

“Forest practices” means, as defined in WAC 222-16-010(21), as now or hereafter amended, any activity conducted on or directly pertaining to forest land that is related to growing, harvesting, or processing timber including, but not limited to:

- A. Road and trail construction;
- B. Harvesting, final and intermediate;
- C. Pre-commercial thinning;

- D. Reforestation;
- E. Fertilization;
- F. Prevention and suppression of diseases and insects;
- G. Salvage of trees; and
- H. Brush control.

“Forest practices” shall not include preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.355 Frequently flooded areas.

“Frequently flooded areas” means all Kitsap County lands, shorelands and waters that are within the one-hundred-year floodplain as designated by FEMA on Flood Insurance Rate and Boundary Maps.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.360 Geologically hazardous areas.

“Geologically hazardous areas” means, as defined in WAC 365-190-030(8), as now or hereafter amended, areas, that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.365 Geologist.

“Geologist” means a person who is licensed in the State of Washington and meets all experience and training requirements in accordance with Chapter WAC 308-15, as now or hereafter amended.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.370 Geotechnical engineer.

“Geotechnical engineer” means a practicing geotechnical/civil engineer licensed as a professional civil engineer with the state of Washington, with professional training and experience in geotechnical engineering, including at least four years’ professional experience in evaluating geologically hazardous areas.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.375 Geotechnical report and geological report.

“Geotechnical report” and “geological report” means a study of potential site development impacts related to retention of natural vegetation, soil characteristics, geology, drainage, groundwater discharge, and engineering recommendations related to slope and structural stability. The geotechnical report shall be prepared by or in conjunction with a licensed geotechnical engineer meeting the minimum qualifications as defined by this title. Geological reports may contain the above information with the exception of engineering recommendations, and may be prepared by a geologist (See Chapter 19.700, Special Reports, for minimum qualifications).

(Ord. 351 (2005) § 17 (part), 2005)

19.150.380 Grading (construction).

“Grading” means any excavating, filling, grubbing, recontouring or mechanical removal of earth materials on the surface layer or any combination thereof.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.385 Grazed wet meadows.

“Grazed wet meadows” means wetlands whose vegetative cover has been greatly modified as a result of grazing, seeding, or cutting for hay. Grazed wet meadows are typically dominated by a pasture species (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) as well as non-native wetland species such as soft rush and buttercup. They are saturated or have standing water during the wet season and part of the growing season but are dry during the summer months. Wet meadows are used, or have been used within the last five years, for livestock grazing, seeding or cutting for hay.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.390 Grubbing.

“Grubbing” means the removal of vegetative matter from underground, such as sod, stumps, roots buried logs, or other debris, and includes the incidental removal of topsoil to a depth not exceeding twelve inches.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.395 Groundwater.

“Groundwater” means water in a saturated zone or stratum beneath the surface of land or water.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.400 Habitat management plan.

“Habitat management plan” means a report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and evaluates the measures necessary to maintain, enhance and improve habitat conservation on a proposed development site.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.405 Habitat of local importance.

“Habitat of local importance” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or areas of high vulnerability to alteration, such as cliffs, talus, and wetlands.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.410 Hazardous substance.

“Hazardous substance” means any liquid, solid, gas or sludge, including any materials, substance, product, commodity or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste described in WAC 173-303-090 and WAC 173-303-100 including waste oil and petroleum products.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.415 Hearing examiner.

“Hearing examiner” means a person appointed to hear or review certain land use decisions pursuant to RCW 36.70.970.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.420 Hydric soils.

“Hydric soils” means soils which are wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of hydrophytic plants.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.425 Hydrogeologist.

“Hydrogeologist” means a person who is qualified to engage in the practice of hydrogeology, has met the qualifications in hydrogeology established under RCW 18.220, and has been issued a license in hydrogeology by the Washington State Geologist Licensing Board.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.430 Infiltration rate.

“Infiltration rate” means a general description of how quickly or slowly water travels through a particular soil type.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.435 Landslide hazard areas.

“Landslide hazard areas” means areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.440 Liquefaction.

"Liquefaction" means a process in which a water-saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.445 Lot.

"Lot" means a platted or unplatted parcel of land which has the minimum area, setbacks, widths and open space required by Title 17, Zoning, of the Kitsap County Code, for occupancy by a principal use and meets the access requirements of said Title 17 of the Kitsap County Code.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.450 Low impact activities.

"Low impact activities" means activities that do not require a development permit and/or do not result in any alteration of hydrology or adversely impact the environment.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.455 Mitigation.

"Mitigation" means avoiding, minimizing or compensating for adverse critical area impacts.

Mitigation includes the following specific categories:

A. Compensatory mitigation: replacing project-induced critical area losses or impacts, including, but not limited to, restoration, creation, or enhancement.

B. Creation mitigation: mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.

C. Enhancement mitigation: mitigation performed to improve the condition of existing degraded critical areas (e.g., wetlands) so that the functions they provide are of a higher quality.

D. Restoration mitigation: mitigation performed to reestablish a critical area (e.g., wetland), or its functional characteristics and processes, which have been lost by alterations, activities or catastrophic events within an area which no longer meets the definition of a critical area.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.470 Native vegetation.

"Native vegetation" means vegetation indigenous to the Puget Sound coastal lowlands.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.475 Non-conforming use or structure.

"Non-conforming use or structure" means a use of land or structure which was lawfully established or built and which has been lawfully continued, but which does not conform to the current regulations of the zone in which it is located as established by Title 17, Zoning, of the Kitsap County Code.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.480 Normal maintenance.

"Normal maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance includes removing debris from and cutting or manual removal of vegetation in crossing and bridge areas. Normal maintenance does not include:

A. Use of fertilizer or pesticide application in wetlands, fish and wildlife habitat conservation areas, or their buffers;

B. Re-digging ditches in wetlands or their buffers to expand the depth and width beyond the original ditch dimensions;

C. Re-digging existing drainage ditches in order to drain wetlands on lands not classified as existing and ongoing agriculture under Section 19.100.130 (General Exemptions).

(Ord. 351 (2005) § 17 (part), 2005)

19.150.485 Open space.

"Open space" means land used for outdoor recreation, critical area or resource land protection, amenity, safety or buffer, and includes structures incidental to these open space uses, but excludes yards required by this title and land occupied by dwellings or impervious surfaces not related to the open space uses.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.490 Ordinary high water mark.

“Ordinary high water mark” means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition existing on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department. The definition is further guided by the additional criteria to clarify this mark in salt and fresh water environments, as contained in WAC 173-22-030, as now or hereafter amended.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.495 Out-of-kind compensation.

“Out-of-kind compensation” means to replace a critical area (e.g., wetland) with a substitute critical area (e.g., wetland) whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement out-of-category such as replacement of wetland loss with new stream segments.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.500 Performance based development (PBD).

“Performance based development” means development characterized by comprehensive planning of the total project, though it may contain a variety of individual lots and/or uses.

Typically, a project may include clustering of structures and preservation of open space with a number of flexible and customized design features specific to the natural features of the property and the uses sought to be implemented. Specific lot area and setback requirements may be reduced or deleted in order to allow maximization of open space, critical areas and other components of the project.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.505 Permeability.

“Permeability” means the capacity of an aquifer or confining bed to transmit water.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.510 Permit.

“Permit” means any development, variance, conditional use permit, or revision authorized under RCW 90.58 or Kitsap County regulations.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.515 Pond.

“Pond” means a naturally existing or artificially created body of standing water less than twenty acres in size and not defined as “Shorelines of the State” by Chapter 90.58 RCW (Shoreline Management Act).

(Ord. 351 (2005) § 17 (part), 2005)

19.150.520 Practicable alternative.

“Practicable alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant for which an easement has been obtained in order to fulfill the basic purpose of the proposed activity.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.525 Priority habitat.

“Priority habitat” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness; breeding, nesting, feeding, foraging, and migratory habitat; winter range, movement corridors; and/or habitats that are of limited availability or high vulnerability to alteration. Priority habitats are established by the Washington State Department of Fish and Wildlife within their Priority Habitats and Species Database.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.530 Priority species.

“Priority species” means species requiring protective measures and/or management to ensure their persistence at genetically viable population levels. Priority species include state-listed or state proposed endangered, threatened or sensitive species and candidate and monitored species.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.535 Public facilities.

“Public facilities” means facilities which are owned, operated and maintained by a public agency.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.540 Public project of significant importance.

“Public project of significant importance” means a project funded by a public agency, department or jurisdiction that is found to be in the best interests of the citizens of Kitsap County and is so declared by the Kitsap County board of commissioners in a resolution.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.545 Public right-of-way.

“Public right-of-way” means any road, alley, street, avenue, arterial, bridge, highway, or other publicly owned ground or place used or reserved for the free passage of vehicular and/or pedestrian traffic or other services, including utilities.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.550 Public utility.

“Public utility” means a business or service, either governmental or having appropriate approval from the state, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as, electricity, gas, sewer and/or wastewater, water, transportation or communications.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.555 Ravine.

“Ravine” means a V-shaped landform, generally having little to no floodplain and normally containing steep slopes, which is deeper than ten vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are typically created by the wearing action of streams.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.559 Reasonable.

“Reasonable” means not excessive or extreme; fair.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.560 Reasonable alternative.

“Reasonable alternative” means an activity that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.565 Reasonable use.

“Reasonable use” means a property that is deprived of all reasonable use when the owner can realize no reasonable return on the property or make any productive use of the property. Reasonable return does not mean a reduction in value of the land, or a lack of a profit on the purchase and sale of the property, but rather, where there can be no beneficial use of the property; and which is attributable to the implementation of the Critical Areas Ordinance.
(Ord. 351 (2005) § 17 (part), 2005)

19.150.570 Reasonable use exception.

“Reasonable use exception” means an exception to the standards of this title that allows for the use of a property which cannot otherwise conform to the requirements set forth in this title, including the variance criteria. (See Section 19.100.140 for Reasonable Use Exception procedures.).
(Ord. 351 (2005) § 17 (part), 2005)

19.150.572 Re-establishment.

“Re-establishment” means the manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historical functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.575 Refuse.

“Refuse” means material placed in a critical area or its buffer without permission from any legal authority. Refuse includes, but is not limited to, stumps, wood and other organic debris, as well as tires, automobiles, construction and household refuse. This does not include large woody debris used with an approved enhancement plan.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.580 Regulated use or activity.

“Regulated use or activity” means any development proposal which includes or directly affects a critical area or its buffer, or occurs within the area of review, as described in Section 19.100.110(G) and Chapters 19.200 through 19.600 of this title.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.582 Rehabilitation.

“Rehabilitation” means the manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historical functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.585 Restoration.

“Restoration” means the return of a critical area (e.g., stream or wetland) to a state in which its functions and values approach its unaltered state as closely as possible.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.590 Retention facilities.

“Retention facilities” means drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration, or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none or only a portion of the runoff entering the facility will be eventually discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance and security.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.595 Riparian area.

“Riparian area” means an area of land which supports riparian vegetation and may include some upland areas, depending on site conditions. These generally occur adjacent to water bodies where specific measures are needed to protect fish and wildlife habitat and watershed functions.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.600 Salmonid.

“Salmonid” means a member of the fish family salmonidae. This family includes Chinook, coho, chum, sockeye and pink salmon; rainbow, steelhead, cutthroat, brook and brown trout; and Dolly Varden char, kokanee, and whitefish.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.605 Sensitive species (state listed).

“Sensitive species” means a species, native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or the removal of threats. Sensitive species are legally designated in WAC-232-12-011, as now or hereafter amended.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.610 Shorelines.

For the purposes of this title, "shorelines" means all of the water areas of the state, as defined by Chapter 90.58 RCW, including reservoirs, and their associated wetlands, together with the lands underlying them; except (a) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (b) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.615 Single-family dwelling.

"Single family dwelling" means a building or structure which is intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes by one family and including accessory structures and improvements.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.620 Special flood hazard areas.

"Special flood hazard area" means the area adjoining the floodway which is subject to a one percent or greater chance of flooding in any year, as determined by engineering studies acceptable to Kitsap County. The coastal high hazard areas are included within special flood hazard areas.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.625 Species of concern.

"Species of concern" means those species that have been classified as endangered, threatened, sensitive, candidate, or monitored by the Washington State Department of Fish and Wildlife.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.630 State Environmental Policy Act or SEPA.

"State Environmental Policy Act" or "SEPA" means the state environmental law (Chapter 43.21C RCW) and rules (Chapter 197-11 WAC) as implemented by Kitsap County Code, Title 18 (Environment).

(Ord. 351 (2005) § 17 (part), 2005)

19.150.635 Streams.

"Streams" means those areas in Kitsap County where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.640 Swale.

"Swale" means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.645 Threatened species (state listed).

"Threatened species" means a species, native to the state of Washington that is likely to become endangered in the foreseeable future throughout a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011, as now or hereafter amended.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.650 Toe of slope.

"Toe of slope" means a distinct topographic break in a slope. Where no distinct break exists, this point shall be the lowermost limits of the landslide hazard area as defined and classified in Chapter 19.400.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.655 Top of slope.

“Top of slope” means a distinct topographic break in a slope. Where no distinct break in a slope exists, this point shall be the uppermost limit of the geologically hazardous area as defined and classified in Chapter 19.400.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.660 Unavoidable and necessary impacts.

“Unavoidable and necessary impacts” means an impact to a critical area that remains after an applicant proposing to alter such an area has demonstrated that no practicable alternative exists for the proposed project

(Ord. 351 (2005) § 17 (part), 2005)

19.150.665 Utilities.

“Utilities” means facilities and/or structures which produce or carry electrical power, gas, sewage, water, communications, oil, publicly maintained storm water facilities, etc.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.670 Utility corridor.

“Utility corridor” means areas identified in the Comprehensive Plan for utility lines, including electrical, gas, sewer, water lines; and public right-of-way and other dedicated utility right-of-way on which one or more utility lines are currently located. The term “other dedicated utility right-of-way” means ownership, easements, permits, licenses or other authorizations affording utilities the right to operate and maintain utility facilities on private property.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.671 Wellhead protection area.

“Wellhead protection area” means the surface and subsurface area surrounding a well or wellfield that supplies a public water system.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.674 Wetland delineation.

“Wetland delineation” means the identification of the wetland boundary as determined by using the Washington State Wetlands Identification and Delineation Manual, March 1997, as now or hereafter amended.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.675 Wetland determination.

“Wetland determination” means an on-site determination as to whether a wetland exists on a specific parcel, completed by either a wetland specialist or the department.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.680 Wetland edge.

“Wetland edge” means the line delineating the outer edge of a wetland established in Section 19.200.210.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.685 Wetlands.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to swamps, marshes, estuaries, bogs, and ponds less than twenty acres, including their submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, storm water facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.690 Wetlands, isolated.

“Wetlands, isolated” or “isolated wetlands” means wetlands that (a) are outside of and not contiguous to any one-hundred-year floodplain of a lake, river, or stream; and (b) have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water or other wetland within a one-hundred-foot radius.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.695 Wetlands, mosaic.

“Wetlands, mosaic” or “mosaic wetlands” means groups of isolated wetlands, any one or more of which may be smaller than any of the regulated categories, but which in aggregate may be as valuable as any of the regulated categories.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.700 Wetlands of regional significance.

“Wetlands of regional significance” means those regulated wetlands determined by the department, or otherwise determined, to have characteristics of exceptional resource value, which should be afforded the highest levels of protection.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.705 Wetlands of statewide significance.

“Wetlands of statewide significance” means those regulated wetlands recommended by the Washington State Department of Ecology (DOE) and determined by the department to have characteristics of exceptional resource value which should be afforded the highest levels of protection.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.710 Wetlands report.

“Wetlands report” means a wetland delineation characterization and analysis of potential impacts to wetlands consistent with applicable provisions of Chapter 19.200 (Wetlands) and Section 19.700.710 (Special Reports).

(Ord. 351 (2005) § 17 (part), 2005)

19.150.715 Wetlands specialist.

“Wetlands specialist” means a person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. Substantially correct is interpreted to mean that errors, if any, will be minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:

- A. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT) through the Society of Wetland Scientists;
- B. A Bachelor of Science degree in the biological sciences from an accredited institution and two years of professional field experience; or
- C. Five or more years professional experience as a practicing wetlands biologist with a minimum three years professional experience delineating wetlands.

(Ord. 351 (2005) § 17 (part), 2005)

19.150.720 Wildlife biologist.

“Wildlife biologist” means a person with experience and training within the last ten years in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications include:

- A. Certification as Professional Wildlife Biologist through The Wildlife Society; or
- B. Bachelor of Science or Bachelor of Arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field from an accredited institution and two years of professional field experience; or
- C. Five or more years of experience as a practicing wildlife biologist with a minimum of three years of practical field experience.

(Ord. 351 (2005) § 17 (part), 2005)

This page of the Kitsap County Code is current through Ordinance 446 (2010), passed January 11, 2010.

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Chapter 19.200 WETLANDS

Sections:

- 19.200.205 Purpose.
- 19.200.210 Wetland identification and functional rating.
- 19.200.215 Wetland review procedure.
- 19.200.220 Wetland buffer requirements.
- 19.200.225 Additional development standards for regulated uses.
- 19.200.230 Special use review.
- 19.200.250 Wetland mitigation requirements.
- 19.200.260 Incentives for wetlands protection.

19.200.205 Purpose.

This chapter applies to all regulated uses within or adjacent to areas designated as wetlands, as defined in Section 19.150.685. The intent of this chapter is to:

A. Achieve no net loss and increase the quality and function and values of wetland acreage, within Kitsap County and maintain and enhance the biological and physical functions and values of wetlands with respect to water quality maintenance, stormwater and floodwater storage and conveyance, fish and wildlife habitat, primary productivity, recreation, and education;

B. Protect the public's health, safety and welfare, while preventing public expenditures that could arise from improper wetland uses and activities;

C. Plan wetland uses and activities in a manner that allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this chapter and the ordinance from which it derives;

D. Prevent turbidity and pollution of wetlands, and fish or shellfish bearing waters and to maintain the wildlife habitat.

(Ord. 351 (2005) § 18, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.200.210 Wetland identification and functional rating.

A. General.

1. Wetlands are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, estuaries, marshes, bogs, and similar areas. For regulatory purposes, wetland delineations shall be determined by the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter.

2. Kitsap County uses the Washington Department of Ecology Washington State Wetland Rating System for Western Washington, revised 2004, or as amended hereafter, to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands.

Wetlands shall be generally designated as follows:

B. Regulated Wetlands. (See Chapter 19.800, Appendix A, for more detailed description).

1. **Category I Wetlands.** Category I wetlands are those regulated wetlands that include but are not limited to rare, unique wetland types that are more sensitive to disturbance than most wetlands and that contain ecological attributes that are impossible to replace within a human lifetime. Category I wetlands score 70 points or more out of 100 on the wetlands ratings systems.

2. **Category II Wetlands.** Category II wetlands are those regulated wetlands that score between 51-69 points out of 100 on the wetlands ratings system.

3. **Category III Wetlands.** Category III wetlands are those regulated wetlands that score between 30-50 points on the wetlands ratings system. Activities affecting isolated, non-mosaic Category III wetlands that are less than 2,500 square feet may be allowed provided that the wetlands report identifies the specific wetland function affected or at risk, and the proposed mitigation to replace the wetland function, on a per function basis.

4. **Category IV Wetlands.** Category IV wetlands are those regulated wetlands that score less than 30 points out of 100 on the wetlands ratings system. Activities affecting isolated, non-mosaic Category IV

wetlands that are less than 7,500 square feet may be allowed provided that the wetlands report identifies the specific wetland function affected or at risk, and the proposed mitigation to replace the wetland function, on a per function basis.

5. Wetlands intentionally created from non-wetland areas to mitigate conversion of other wetlands.

6. Mosaic wetlands as defined at Section 19.150.695.

C. Non-Regulated Wetlands.

Created Wetlands. Wetlands created intentionally from a non-wetland site that were not required to be constructed as mitigation for adverse wetland impacts. These may include, but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this title, and landscape amenities.

D. Criteria for Determining Wetlands Divided by a Manmade Feature.

1. When a wetland is divided by a manmade feature (e.g., a road embankment), the wetland shall be rated as if it is not divided, if there is a perennial or intermittent surface water connection between the two wetlands and either of the following criteria is met:

a. It can be demonstrated that the separate wetlands were one discrete wetland prior to construction of the manmade feature. This may be accomplished through an analysis of secondary information such as aerial photographs and soils maps; or

b. The two separated wetlands can be shown to function as one wetland. This shall be determined based on normal conditions (i.e., in the absence of unauthorized activity, the wetlands possess similar vegetative or wildlife assemblages or hydrologic regime).

2. Separated wetland areas may be rated jointly in the absence of a perfectly level culvert where it can be demonstrated that a level surface water connection is present within the culvert that permits flow of water, fish, or other organisms in both directions. Separated wetland areas may also be rated jointly in the absence of a perfectly level culvert with two-way water flow if the bottom of the culvert is below the high water marks in the receiving wetland or if the high water marks on either side differ by six inches or less in elevation.

3. Connecting Mosaic Pattern Wetlands. In cases where the wetlands to be categorized are smaller than one acre in size and separated from each other by 100 feet or less (on average), the DOE mosaic methodology shall be used to determine the wetland category. The area of the wetlands must be greater than 50 percent of the total combined area of wetland and upland for the patchwork to be categorized as one wetland. The boundary of the mosaic wetlands must reflect the ecological interconnectedness of the wetlands within the mosaic. The county will not accept mosaic boundaries drawn to minimize the area of wetland within the mosaic.

(Ord. 376 (2007) § 4, 2007; Ord. 351 (2005) § 19, 2005)

19.200.215 Wetland review procedures.

A. Application Requirements.

1. Application Procedures for New Development. Any new development, except as provided in subsection (C)(1) below, containing a regulated wetland or its buffer, or proposed within the largest potential wetland buffer width, shall provide the special reports listed below, as required by the department, prior to any development authorization by the department. Additional reports or information to further identify potential impacts to any part of the environment may also be required.

a. Wetland delineation report (Section 19.700.710);

b. Wetland mitigation report (Section 19.700.715); and

c. Erosion and sedimentation control measures and/or a site development activity permit as required by Title 12 of the Kitsap County Code (Stormwater Management).

2. Time Limitations. Special reports submitted in accordance with this section shall be valid for a period of three years from the date of the report unless a longer or shorter period is specified by the department. An extension of an original report may be granted upon submittal of a written request to the department prior to expiration. Prior to granting any extension, the department may require updated studies if, in its judgment, the original intent of the application is altered, enlarged or if circumstances relevant to the review and issuance of the original permit have changed substantially, or if the applicant failed to abide by the terms of the original approval. Time extensions shall be granted in writing and documented in the file.

B. Delineation of Wetland Boundaries.

1. For regulatory purposes, wetland delineations shall be determined by using the Washington State Wetlands Identification and Delineation Manual, March 1997, or as hereafter amended.

2. The applicant shall be responsible for hiring a qualified wetlands specialist to determine the wetland boundaries by means of a wetland delineation. This specialist shall stake or flag the wetland boundary. When required by the department, the applicant shall hire a professional land surveyor licensed by the state of Washington to survey the wetland boundary line. The regulated wetland boundary and regulated wetland buffer shall be identified on all grading, landscaping, site, on-site septic system designs, utility or other development plans submitted in support of the project.

3. The department may perform a delineation of a wetland boundary on parcels where no more than one single-family dwelling unit is allowed.

4. Where the applicant has provided a delineation of a wetland boundary, the department may verify the wetland boundary at the cost of the applicant and may require that a wetland specialist make adjustments to the boundary.

C. Wetland Review Process for Single-family Dwellings.

1. Expedited Approval. Applicants proposing a single-family dwelling may receive expedited approval by the department if they choose to adopt the largest buffer width from the appropriate wetland category. Expedited approval removes the requirements of the wetland certification process for single-family dwellings (subsection (2), below) provided that the wetland delineation and/or wetland rating is not disputed. Administrative buffer reductions or variance will not apply.

2. Wetland Certification Process for Single-family Dwellings (No Encroachment into a Regulated Wetland or its Standard Buffer).

a. Prior to issuance of a building permit, site development permit, or on-site sewage system permit, the applicant may submit a single-family wetland certification form completed by a wetland specialist that certifies either:

- (1) No regulated wetlands are present within 250 feet of the project area; or
- (2) Wetlands are present within 250 feet of the project area, but all regulated activities associated with the dwelling (e.g., landscaped areas, septic facilities, outbuildings, etc.) will occur outside of the standard buffer of the identified wetland.

b. If regulated wetland buffers extend onto the site, the wetland specialist shall place permanent, clearly visible, wetland buffer signs at the edge of the buffer. A wetland buffer sign affidavit, signed by the wetland specialist, shall be submitted to the department as verification that the wetland buffer signs have been placed on the site.

c. A survey will not be required.

d. The single-family certification form may be used only to authorize single-family dwellings and associated home site features such as driveways, gardens, fences, wells, lawns, and on-site septic systems. It may not be used for new agricultural activities, expansion of existing agricultural activities, forest practice activities, commercial projects, land divisions, buffer width modifications, or violations.

e. The single-family certification process will be monitored by the department for accuracy, and enforcement actions will be initiated should encroachment into a regulated wetland or buffer occur.

f. The applicant/property owner assumes responsibility for any and all errors of the single-family certification form and all associated mitigation imposed by the department.

g. Single-family certification forms shall be filed with the Kitsap County auditor's office.
(Ord. 351 (2005) § 20, 2005)

19.200.220 Wetland buffer requirements.

For the purpose of this title, a regulated wetland and its buffer are subject to the regulatory provisions of this chapter.

A. Determining Buffer Widths. Buffer widths shall be measured horizontally from a perpendicular line established at the wetland edge based on the base buffer width identified in Table 19.200.220(A) and adjustments made from considerations contained in Table 19.200.220(B), Land Use Impact Intensity, below, and as applied in Tables 19.200.220(C) through (F).

TABLE 19.200.220(A) BASE BUFFER WIDTHS

Category of Wetland	Base Buffer Width
Category I	200 feet
Category II	100 feet

Category III	50 feet
Category IV	30 feet

TABLE 19.200.220(B)
LAND USE IMPACT "INTENSITY" BASED ON DEVELOPMENT TYPES

Rating of Impact From Proposed Changes in Land Use	Examples of Land Uses that Cause the Impact Based on Common Zoning Categories
High	Commercial, Urban, Industrial, Institutional, Retail Sales, Residential subdivisions with more than 1 unit/acre, New agriculture (high-intensity processing such as dairies, nurseries and greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), New transportation corridors, High intensity recreation (golf courses, ball fields), hobby farms
Moderate	Single-family residential lots, Residential subdivisions with 1 unit/acre or less, Moderate-intensity open space (parks), New agriculture (moderate-intensity such as orchards and hay fields), Transportation enhancement projects
Low	Forestry, Open space (low-intensity such as passive recreation and natural resources preservation, minor transportation improvements)

B. Width Tables of Buffers by Category of Wetland.

TABLE 19.200.220(C)
WIDTH OF BUFFERS REQUIRED TO PROTECT CATEGORY IV WETLANDS

Category IV Wetland Characteristics	Buffer Width Adjustments to 30 ft. Base Width (By Impact of Land Use)
Score for functions < 30 points	Low — Decrease by 5 ft. Moderate — Increase by 10 ft. High — Increase by 20 ft.

TABLE 19.200.220(D)
WIDTH OF BUFFERS REQUIRED TO PROTECT CATEGORY III WETLANDS

Category III Wetland Characteristics	Buffer Width-Adjustments to 50 ft. Base Width (By Impact of Land Use)
Moderate level of function for habitat (score for habitat is 20 — 28 pts.)	Low — Increase by 25 ft. Moderate — Increase by 60 ft. High — Increase by 100 ft.
Category III wetlands not meeting above criteria	Low — Decrease by 10 ft. Moderate — Increase by 10 ft. High — Increase by 30 ft.

TABLE 19.200.220(E)
WIDTH OF BUFFERS REQUIRED TO PROTECT CATEGORY II WETLANDS

Category II Wetland Characteristics	Buffer Width Adjustments to 100 ft. Base Width (By Impact of Land Use/Apply Most Protective)
High level of function for habitat (score for habitat is 29 — 36 pts.)	Low — Increase by 50 ft. Moderate — Increase by 125 ft. High — Increase by 100 ft.
Moderate level of function for habitat (score for habitat is 20 — 28 pts.)	Low — Decrease by 25 ft. Moderate — Increase by 10 ft. High — Increase by 50 ft.
High level of function for water quality improvement and low for habitat (score water quality is 24 — 32 pts. and habitat is less than 20)	Low — Decrease by 50 ft. Moderate — Decrease by 25 ft. High — No change
Estuarine	Low — Decrease by 25 ft. Moderate — Increase by 10 ft. High — Increase by 50 ft.
Category II wetlands not meeting above criteria	Low — Decrease by 50 ft. Moderate — Decrease by 25 ft. High — No Change

TABLE 19.200.220(F)
WIDTH OF BUFFERS REQUIRED TO PROTECT CATEGORY I WETLANDS

Category I Wetland Characteristics	Buffer Width Adjustments to 200 ft. Base Width (By Impact of Land Use/Apply Most Protective)
Natural Heritage Wetlands	Low — Decrease by 75 ft. Moderate — Decrease by 10 ft. High — Increase by 50 ft.
Bogs	Low — Decrease by 75 ft. Moderate — Decrease by 10 ft. High — Increase by 50 ft.
Forested	Buffer size to be based on score for habitat functions or water quality functions
Estuarine	Low — Decrease by 100 ft. Moderate — No Change High — Increase by 50 ft.
Wetlands in Coastal Lagoons	Low — Decrease by 100 ft. Moderate — No Change High — Increase by 50 ft.
High level of function for habitat (score for habitat is 29 — 36 pts.)	Low — Decrease by 50 ft. Moderate — Increase by 25 ft. High — Increase by 50 ft.
Moderate level of function for habitat (score for habitat is 20 — 28 pts.)	Low — Decrease by 125 ft. Moderate — Decrease by 90 ft. High — No change

High level of function for water quality improvement (WQI) (score is 24 — 32) and low for habitat (score for habitat is less than 20 points)	Low — Decrease by 150 ft. Moderate — Decrease by 125 ft. High — Decrease by 100 ft.
Category I wetlands not meeting any of the above criteria	Low — Decrease by 150 ft. Moderate — Decrease by 125 ft. High — Decrease by 100 ft.

Note: If the wetland meets more than one of the criteria listed in each table, the buffer needed to protect the wetland is the one that allows for the greatest protection.

C. Modification of Buffer Widths. Modifications to buffer widths may be considered provided that mitigation sequencing is first demonstrated to first avoid, then minimize, and as a last resort, mitigate for unavoidable reductions or alterations to the required wetland buffers.

1. Buffer Decrease Sequencing. Demonstration of unavoidable modifications to wetland buffers shall be implemented through the following methods:

a. Buffer Averaging. Standard buffer widths may be modified by the department for a development proposal by averaging buffer widths. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging. The buffer shall not be reduced by more than 50 percent of the standard buffer width at any point. The department may allow wetland buffer averaging where it can be demonstrated that such averaging can clearly provide as great or greater functions and values as would be provided under the standard buffer requirement. The following standards shall apply to buffer averaging:

(1) The decrease in buffer width is minimized by limiting the degree or magnitude of the regulated activity.

(2) For wetlands and/or required buffers associated with documented habitat for endangered, threatened, or sensitive fish, or wildlife species, a habitat assessment report has been submitted that demonstrates that the buffer modification will not result in an adverse impact to the species of study.

(3) Width averaging will not adversely impact the wetland.

(4) The total buffer area after averaging is no less than the buffer area prior to averaging.

(5) The minimum buffer width will not be less than 50 percent of the widths established after the categorization is done and any buffer adjustments applied.

(6) If buffer width averaging is utilized and significant trees are identified on the outer edge of the reduced buffer such that their drip line extends beyond the buffer edge, the following tree protection requirements must be followed:

i. A tree protection area shall be designed to protect each tree or tree stand during site development and construction. Tree protection areas may vary widely in shape, but must extend a minimum of five feet beyond the existing tree canopy area along the outer edge of the dripline of the tree(s), unless otherwise approved by the department.

ii. Tree protection areas shall be added and clearly labeled on all applicable site development and construction drawings, submitted to the department.

iii. Temporary construction fencing at least 30 inches tall shall be erected around the perimeter of the tree protection areas prior to the initiation of any clearing or grading. The fencing shall be posted with signage clearly identifying the tree protection area. The fencing shall remain in place through site development and construction.

iv. No clearing, grading, filling or other development activities shall occur within the tree protection area, except where approved in advance by the department and shown on the approved plans for the proposal.

v. No vehicles, construction materials, fuel, or other materials shall be placed in tree protection areas. Movement of any vehicles within tree protection areas shall be prohibited.

vi. No nails, rope, cable, signs, or fencing shall be attached to any tree proposed for retention.

vii. The department may approve the use of alternate tree protection techniques if an equal or greater level of protection will be provided.

b. Administrative Buffer Reductions. Granting of a reduced buffer shall be the minimum necessary to accommodate the permitted use. In lieu of going through the formal variance process, an administrative reduction to buffer widths may be granted subject to the following criteria:

(1) For proposed single-family dwellings, the department may administratively reduce the buffer by up to 25 percent, pursuant to the variance criteria listed in Section 19.100.135. Where an administrative buffer reduction is granted, fencing or signage of the buffer edge shall be required. The order of sequence for such buffer reductions shall be as follows:

- i. Use of buffer averaging maintaining 100 percent of the buffer area under the standard buffer requirement;
- ii. Reduction of the overall buffer area by no more than 25 percent of the area required under the standard buffer requirement;
- iii. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
- iv. The use of alternative on-site wastewater systems in order to minimize site clearing;
- v. Infiltration of stormwater where soils permit; and
- vi. Retention of existing native vegetation on other portions of the site in order to off set habitat loss from buffer reduction.

(2) The minimum buffer shall be no less than thirty feet, except as allowed under a formal variance or reasonable use approval.

c. Variance. In cases where proposed development cannot meet the administrative buffer reduction criteria described in this section, a variance shall be required as described in Section 19.100.135.

D. Fencing and Signs. This section applies to regulated wetlands and their buffers.

1. Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the department, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per county approval.

2. The department may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The department may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer.

E. Protection of Buffers. Buffer areas shall be protected as required by the department. The buffer shall be identified on a site plan and filed as an attachment to the notice to title as required by Section 19.100.150 (Critical Area and Buffer Notice to Title).

F. Building or Impervious Surface Setback Lines. A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the department determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan and filed as an attachment to the notice to title as required by Section 19.100.150 (Critical Area and Buffer Notice to Title).

(Ord. 351 (2005) § 21, 2005)

19.200.225 Additional development standards for regulated uses.

In addition to meeting the development standards of this chapter, those regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.

A. Docks. Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the Kitsap County Shoreline Master Program and where no existing buffer or wetland vegetation would be significantly altered.

B. Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this title, including the maintenance of buffers around regulated wetlands.

C. Agricultural Restrictions. In all development proposals which would permit introduction of agricultural uses, damage to Category I, II, III and IV regulated wetlands shall be avoided. These restrictions shall not apply to those regulated wetlands defined as grazed wet meadows, regardless of their classification only where grazing has occurred within the last five years. Wetlands shall be avoided by one of the following methods:

1. Implementation of a farm conservation plan agreed upon by the conservation district and the applicant to protect and enhance the water quality of the wetland; and/or
2. Fencing located not closer than the outer buffer edge.

D. Road/Street Repair and Construction. Any private or public road or street repair, maintenance, expansion or construction which is allowed shall comply with the following minimum development standards:

1. No other reasonable or practicable alternative exists and the road or street serves multiple properties whenever possible;
2. Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;
3. The road or street repair and construction are the minimum necessary to provide safe roads and streets; and
4. Mitigation shall be performed in accordance with specific project mitigation plan requirements.

E. Land Divisions and Land Use Permits. All proposed divisions of land and land uses (including but not limited to the following: short plats, large lot subdivisions, master planned fully contained communities, master planned resorts, performance based developments, conditional use permits, site plan reviews, binding site plans) which include regulated wetlands, shall comply with the following procedures and development standards:

1. Regulated wetlands, except the area with permanent open water, and wetland buffers may be included in the calculation of minimum lot area for proposed lots.
2. Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be dedicated as open space tracts, or an easement or covenant encumbering the wetland and wetland buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan, and title.
3. In order to implement the goals and policies of this title, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.
4. After preliminary approval and prior to final land division approval, the department may require the common boundary between a regulated wetland or associated buffer and the adjacent land be identified using permanent signs and/or fencing. In lieu of signs and/or fencing, alternative methods of wetland and buffer identification may be approved when such methods are determined by the department to provide adequate protection to the wetland and buffer.

F. Surface Water Management. Surface water discharges from stormwater facilities or structures may be allowed when they are in accordance with Title 12 of the Kitsap County Code (Stormwater Management) subject to the provisions of Section 19.200.230, Special Use Review. The discharge shall neither significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the wetland. Pre-treatment of surface water discharge through biofiltration or other best management practices (BMPs) shall be required.

G. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches and viewing platforms may be allowed in wetlands or wetland buffers pursuant to the following guidelines:

1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.
2. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance and existing hydrological characteristics, shrubs, snags and important wildlife habitat.
3. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland.
4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of 30 feet from the wetland edge, except where wetland crossings or viewing areas have been approved.
5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the department. Trails shall be constructed with pervious materials unless otherwise approved by the department.

H. Utilities in Wetlands or Wetland Buffers.

1. The utility development authorized in Section 19.100.125(E) shall be allowed, subject to best management practices in wetlands and wetland buffers.
2. Construction of new utilities outside the road right-of-way or existing utility corridors may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and

the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and special reports (Chapter 19.700) required by this title.

3. Construction of sewer lines or on-site sewage systems may be permitted in regulated wetland buffers only when: (a) the applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation), and/or (b) there are no other practicable or reasonable alternatives available and construction meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed.

4. New utility corridors shall not be allowed when the regulated wetland or buffer has known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved habitat management plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer.

5. New utility corridor construction and maintenance shall protect the regulated wetland and buffer environment by utilizing the following methods:

a. New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet), measured on the uphill side.

b. New utility corridors shall be revegetated with appropriate native vegetation at preconstruction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives;

c. Any additional utility corridor access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.

d. The department may require other additional mitigation measures.

6. Utility corridor maintenance shall include the following measures to protect the regulated wetland and buffer environment:

a. Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, unless appropriate containment measures are used, nor should lead-based paints be used.

b. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the U.S. Environmental Protection Agency (EPA) and Washington Department of Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

I. Parks. Development of public park and recreation facilities may be permitted subject to the provisions of Section 19.200.230, Special Use Review, below. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a wetland mitigation plan.

(Ord. 351 (2005) § 23, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.200.230 Special use review.

Development identified as a special use review may be approved, with conditions, or denied according to the procedures and criteria outlined in this section. Special use review is an administrative process unless the underlying permit requires a public hearing. The department is authorized to take action on permits as required by this title.

A. The department may approve a permit after review of the application and a wetland mitigation plan submitted in accordance with this title. The department shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists, the proposed use is consistent with the spirit and intent of this title and it will not cause adverse impacts to the wetland or the wetland buffer which cannot be mitigated. In taking action to approve a special use review, the department may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.

B. The department shall deny a special use review request when it finds that the proposed use or activity is inconsistent with this title and/or will cause adverse impacts to the wetland or wetland buffer, which cannot be adequately mitigated and/or avoided.

C. Special use review determinations are appealable to the hearings examiner pursuant to Section 19.100.145 (Appeals).

(Ord. 351 (2005) § 24, 2005; Ord. 217 (1998) § 3 (part), 1998)

19.200.250 Wetland mitigation requirements.

A. Mitigation. All regulated development activities in wetlands or buffers shall be mitigated according to this title subject to the following order:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to reduce impacts;
3. Using one of the following mitigation types, listed in order of preference:
 - a. Rectifying the impact by reestablishing, rehabilitating, or restoring the affected environment;
 - b. Compensating for the impact by replacing or providing substitute resources or environments; or
 - c. Compensating for the impact by improving the environmental processes that support wetland systems and functions.
4. Monitoring the impact and compensation and taking appropriate corrective measures; or
5. Combining any of the above measures to mitigate for individual actions.

B. Mitigation for Regulated Activities in Wetland Buffers. A specific mitigation plan is required and the requirements are provided in Section 19.700.715. Approval of the mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and department director or designee, and recorded with the Kitsap County Auditor. The agreement shall refer to all requirements for the mitigation project.

C. Mitigation for Regulated Activities in Wetlands. Compensatory mitigation shall be required for regulated activities that result in the loss of wetland acreage. A specific mitigation plan is required and the requirements are provided in Section 19.700.715.

1. A compensatory mitigation plan shall be completed. The applicant shall submit a detailed mitigation plan for compensatory mitigation to the department.
2. The detailed mitigation plan shall be prepared, signed, and dated by the wetland specialist to indicate that the plan is in accordance with specifications as determined by the wetland specialist. A signed original mitigation plan shall be submitted to the department.
3. Approval of the detailed mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and department director or designee, and recorded with the Kitsap County Auditor. The agreement shall refer to all requirements for the mitigation project.
4. The mitigation project shall be completed according to a schedule agreed upon between the department and the applicant.
5. Wetland mitigation shall occur according to the approved wetland mitigation plan and shall be consistent with provisions of this chapter and title.
6. The wetland specialist shall be onsite during construction and plant installation phases of all mitigation projects.
7. On completion of construction for the wetland mitigation project, the wetland specialist shall submit an as-built report to the department for review and approval.

D. Wetland Replacement Ratios.

1. The following ratios appearing below in the Table 19.200.250 (Wetland Mitigation Replacement Ratios), as well as consideration of the factors listed in this section, shall be used to determine the appropriate amounts of restored, rehabilitated, created or enhanced wetland that will be required to replace impacted wetlands. The first number specifies the amount of wetland area requiring replacement, and the second number specifies the amount of wetland area altered.

**TABLE 19.200.250
WETLAND MITIGATION REPLACEMENT RATIOS TABLE**

Wetland Category	Re-establishment or Creation	Rehabilitation	1:1 Reestablishment or Creation (R/C) and Enhancement (E)	Enhancement Only
All Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1

Category II Estuarine	Case-by-case	4:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
All other Category II	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1	24:1
Category I other	4:1	8:1	1:1 R/C and 6:1 E	16:1
Category I Natural Heritage site	Case-by-case	6:1 rehabilitation of a Natural Heritage site	Case-by-case	Case-by-case
Category I Coastal Lagoon	Case-by-case	6:1 rehabilitation of a coastal lagoon	Case-by-case	Case-by-case
Category I Bog	Case-by-case	6:1 rehabilitation of a bog	Case-by-case	Case-by-case
Category I Estuarine	Case-by-case	6:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case

2. The department may increase or decrease the ratios based on one or more of the following:
- a. Replacement ratios may be increased under the following circumstances:
 - (1) Uncertainty exists as to the probable success of the proposed restoration or creation;
 - (2) A significant period of time will elapse between impact and establishment of wetland functions at the mitigation site;
 - (3) Proposed compensation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
 - (4) The impact was an unauthorized impact.
 - b. Replacement ratios may be decreased under the following circumstances:
 - (1) Documentation by the applicant provides more certainty that the proposed compensation actions will be successful. For example, demonstrated prior success with similar compensation actions as those proposed, and/or extensive hydrologic data to support the proposed water regime;
 - (2) Documentation by the applicant demonstrates that the proposed compensation actions will provide functions and values that are significantly greater than the wetland being impacted; or
 - (3) The proposed mitigation actions are conducted in advance of the impact and are shown to be successful.
- E. Off-Site Compensatory Mitigation.
1. Considerations for determining whether off-site mitigation is preferable include, but are not limited to:
 - a. On-site conditions do not favor successful establishment of the required vegetation type, or lack the proper soil conditions, or hydrology;
 - b. On-site compensation would result in an aquatic habitat that is isolated from other natural habitats or severely impaired by the effects of the adjacent development;
 - c. Off-site location is crucial to one or more species that is threatened, endangered, or otherwise of concern, and the on-site location is not;
 - d. Off-site location is crucial to larger ecosystem functions, such as providing corridors between habitats, and the on-site location is not; and
 - e. Off-site compensation has a greater likelihood of success or will provide greater functional benefits.

2. When determining whether off-site mitigation is preferable, the value of the site-specific wetland functions at the project site, such as flood control, nutrient retention, sediment filtering, and rare or unique habitats or species, should be fully considered.

3. When conditions do not favor on-site compensation, off-site compensatory mitigation should be located as close to the impact site as possible, at least within the same watershed, while still replacing lost functions.

F. **Monitoring Requirements.** Kitsap County shall require monitoring reports on an annual basis for a minimum of five years and up to ten years, or until the department determines that the mitigation project has achieved success. The wetlands mitigation plan shall provide specific criteria for monitoring the mitigation project. Criteria shall be project-specific and use best available science to aid the department in evaluating whether or not the project has achieved success (See Chapters 19.700, 19.710 and Section 19.700.715, Special Reports).

G. **Mitigation Banking.** Kitsap County encourages the creation of a public or private mitigation banking system when feasible.
(Ord. 351 (2005) § 25, 2005)

19.200.260 Incentives for wetland mitigation.

Kitsap County recognizes that property owners wish to gain economic benefits from their land. The county encourages such mechanisms as the Open Space Tax Program, conservation easements and donations to land trusts, in order to provide taxation relief upon compliance with the regulations in this title. Buffers dedicated as permanent open space tracts will qualify for the open space taxation program and will be offered the opportunity to be entered into this program. Kitsap County may offer to purchase these lands through the Conservation Futures Fund.

(Ord. 351 (2005) § 26, 2005; Ord. 217 (1998) § 3 (part), 1998)

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Chapter 19.300
FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Sections:

- 19.300.305 Purpose.
19.300.310 Fish and wildlife habitat conservation area categories.
19.300.315 Development standards.

19.300.305 Purpose.

This chapter applies to all regulated uses included in this title, or uses within the largest potential buffer of areas designated as fish and wildlife habitat conservation areas, as categorized in Section 19.300.310, below. The purpose of this chapter is to identify regulated fish and wildlife habitat conservation areas and establish habitat protection procedures and mitigation measures that are designed to achieve no net loss of fish and wildlife species and habitats due to new development or regulated activities. It is further stated that the intent of this chapter is to:

- A. Preserve natural flood control, storm water storage, and drainage or stream flow patterns;
- B. Prevent turbidity and pollution, control siltation, protect nutrient reserves, and maintain water flows and quality for anadromous and resident fish, marine shellfish and forage fish; and
- C. Encourage non-regulatory methods of habitat retention whenever practical, through mechanisms such as education and the open space tax program.

(Ord. 351 (2005) § 27, 2005 Ord. 217 (1998) § 3 (part), 1998)

19.300.310 Fish and wildlife habitat conservation area categories.

A. General. Fish and wildlife habitat conservation areas are those areas that support regulated fish or wildlife species or habitats, typically identified by known point locations of specific species (such as a nest or den) or by habitat areas or both.

B. Classification and Designation. The following categories shall be used in classifying and designating fish and wildlife habitat conservation areas:

1. Streams. All streams which meet the criteria for Type S, F, Np or Ns waters as set forth in WAC 222-16-030 of the Washington Department of Natural Resources (DNR) Water Typing System, as now or hereafter amended, Table 19.300.310 (*See also* Chapter 19.800, Appendix "B").

Table 19.300.310
DNR Water Typing System

Water Type	
Current DNR Water Typing	Previous DNR Water Typing
Type S	Type 1
Type F	Type 2 and 3
Type Np	Type 4
Type Ns	Type 5

2. Shorelines.

a. Saltwater Shorelines, and Lakes 20 Acres and Greater in Surface Area. Those saltwater shorelines and lakes defined as shorelines of the state in the Shoreline Management Act of 1971 and the Kitsap County Shoreline Management Master Program, as now or hereafter amended. Shorelines include Type S waters as set forth in WAC 222-16-030 (DNR Water Typing System) as now or hereafter amended; commercial and recreational shellfish areas; kelp and eelgrass beds; and forage fish spawning areas.

b. Lakes Less Than 20 Acres in Surface Area. Those lakes which meet the criteria for Type F, Np, and Ns waters as set forth in WAC 222-16-030, as now or hereafter amended. This includes lakes and

ponds less than twenty acres in surface area and their submerged aquatic beds, and lakes and ponds planted with game fish by a governmental or tribal authority.

3. **Wildlife Habitat Conservation Areas.**

a. **Class I Wildlife Habitat Conservation Areas.**

- (1) Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened and sensitive species documented in maps or databases available to Kitsap County.
- (2) Areas targeted for preservation by the federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service; or
- (3) Areas that contain habitats and species of local importance.

b. **Class II Wildlife Habitat Conservation Areas.** Habitats for state listed candidate and monitored species documented in maps or databases available to Kitsap County and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. (Ord. 351 (2005) § 28, 2005)

19.300.315 Development standards.

A designated fish and wildlife habitat conservation area with its buffer is subject to the regulatory provisions of this chapter. Those regulated uses identified below within designated fish and wildlife habitat conservation areas shall comply with the performance standards outlined in this chapter.

A. **Buffers and Building Setbacks.**

1. **Buffers.** Buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Buffers shall be maintained along the perimeter of fish and wildlife habitat conservation areas, as listed in Table 19.300.315. Refuse shall not be placed in buffers.

**TABLE 19.300.315
FISH AND WILDLIFE HABITAT CONSERVATION AREA DEVELOPMENT STANDARDS**

Streams			
Water Type	Buffer Width	Minimum Building Setback	Other Development Standards
S Segments of Big Beef Creek, Curley Creek, Chico Creek, Burley Creek, Union River, Blackjack Creek and Tahuya River	200 feet	15 feet beyond buffer	Where applicable, refer to the development standards in Chapters 19.200 (Wetlands) and 19.400 (Geologically Hazardous Areas). Where such features occur on site, the more restrictive buffer or building setback shall apply.
F	150 feet	15 feet beyond buffer	
Np	50 feet	15 feet beyond buffer	
Ns	50 feet	15 feet beyond buffer	
Saltwater Shorelines and Lakes			
Shoreline Designation ¹	Buffer Width	Minimum Building Setback	Other Development Standards

Urban	50 feet	15 feet beyond buffer	Where applicable, refer to the development standards in Chapters 19.200 (Wetlands) and 19.400 (Geologically Hazardous Areas). Where such features occur on site, the more restrictive buffer or building setback shall apply.
Semi-Rural and Rural shorelines and Lakes less than 20 acres	100 feet	15 feet beyond buffer	
Conservancy	50 feet	15 feet beyond buffer	
Natural	100 feet	15 feet beyond buffer	
Wildlife Habitat Conservation Areas			
Class I	Buffer widths and setbacks will be determined through a mandatory Habitat Management Plan (HMP)		
Class II	Site-specific conditions will determine the need for the preparation of a HMP		

1. As defined in Title 22 of this code, the Shoreline Management Master Program.

2. Buffer Measurement. Distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. It is acceptable, however, to enhance the buffer by planting indigenous vegetation, as approved by the department. Alteration of buffer areas and building setbacks may be allowed for development authorized by Section 19.100.140 (Reasonable Use Exception), Section 19.100.125 (Exemptions), Section 19.100.130 (Standards for Existing Development) or Section 19.100.135 (Variances). The buffer width shall be increased to include streamside wetlands, which provide overflow storage for storm waters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall include the entire stream feature.

3. Buffer Widths and Setbacks for Shorelines. The building setback or buffer width for new development shall be based on the Kitsap County Shoreline Management Master Program environment designation, or as required by Chapter 17.450, (View Blockage Requirements), as now or hereafter amended, whichever is greater. (Note: Setbacks for Conservancy-Public Lands to be determined by the Kitsap County Shoreline Management Master Program.)

4. Provision for Decreasing Buffer. In lieu of going through the formal variance process, an administrative reduction to buffer widths, except for urban, conservancy and natural shorelines, may be granted subject to the requirements of this section. Where an applicant demonstrates pursuant to the variance criteria that buffer widths cannot be met, a habitat management plan (HMP) will be required that shall meet the requirements as described in Chapter 19.700 (Special Reports). The department may decrease the buffer if, after consultation with the Washington State Department of Fish and Wildlife, and review of the HMP, the department determines that conditions are sufficient to protect the affected fish and wildlife habitat conservation area. The department may reduce the buffer width by up to fifty percent for construction of a single-family dwelling or up to twenty-five percent for all other development, but the buffer shall not be less than twenty-five feet. Administrative buffer reductions may be allowed for rural, semi-rural shoreline environments and lakes less than 20 acres where a vacant parcel has a common property line with two or more lots which abut the ordinary high water line and which are developed with structures. In these cases, the standard buffer may be reduced to the greater of 50 feet or the average of the standard buffer and setbacks of the structures on the adjacent properties. All other reductions of greater than twenty-five percent for single-family dwellings will be a Type II decision and require notification (see Chapter 19.800, Appendix F). Granting of a reduced buffer shall

be the minimum necessary for the permitted use. When applicable, the order of sequence for buffer reductions shall be as follows:

- i. Use of buffer averaging, maintaining one hundred percent of the buffer area under the standard buffer requirement;
- ii. Reduction of the overall buffer area by no more than twenty-five percent of the area required under the standard buffer requirement;
- iii. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
- iv. Use of alternative on-site wastewater systems in order to minimize site clearing;
- v. Infiltration of stormwater where soils permit; and
- vi. Retention of native vegetation on other portions of the site in order to offset habitat loss from buffer reduction.

5. **Provision for Increasing Buffer.** The department may increase the buffer width whenever a development proposal has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species, or when the buffer is located within a landslide or erosion hazard area.

6. **Buffers for Streams in Ravines.** For streams in ravines with ravine sides ten feet or greater in height, the buffer width shall be the minimum buffer required for the stream type, or a buffer width that extends twenty-five feet beyond the top of the slope, whichever is greater.

7. **Channel Migration Zones.** In areas where channel migration zones occur outside of Urban Growth Areas (as of the date of the adoption of this title), the buffer distance shall be measured from the edge of the channel migration zone.

8. **Protection of Buffers.** Buffer areas shall be protected as required by the department. The buffer shall be identified on a site plan and filed as an attachment to the notice as required by 19.100.150 (Critical Area and Buffer Notice to Title).

9. **Building or Impervious Surface Setback Lines.** A building or impervious surface setback line of 15 feet is required from the edge of any fish and wildlife habitat conservation area buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the department determines that such intrusions will not adversely impact the fish and wildlife habitat conservation area. The setback shall be identified on a site plan and filed as an attachment to the notice as required by 19.100.150 (Critical Area and Buffer Notice to Title).

10. **Buffer and Building Setbacks for Water Dependent Activities.** The department may allow an administrative alteration to the required buffer and building setback for water dependent activities when no other reasonable or practicable alternative exists and the development is consistent with the Kitsap County Shoreline Management Master Program. Any alteration of a buffer or building setback shall be the minimum necessary and shall require an approved habitat management plan which identifies and adequately protects any affected fish and wildlife habitat conservation area.

B. **Class I Wildlife Habitat Conservation Areas Development Standards.** All sites with known Class I wildlife habitat conservation areas will require, for all development permits, the submittal and approval of a habitat management plan (HMP) as specified in Chapter 19.700 (Special Reports). In the case of bald eagles, an approved bald eagle management plan by the Washington State Department of Fish and Wildlife (WDFW), meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended, shall satisfy the requirements for a habitat management plan (HMP). In the case of listed fish species, a HMP shall be required if a buffer reduction is proposed under the provisions of Section 19.300.315(A). An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation.

C. **Class II Wildlife Habitat Conservation Area Development Standards.** All development within designated Class II wildlife conservation areas may require the submittal of a habitat management plan (HMP). An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA/critical areas review on the project.

D. **Stream Crossings.** Any private or public road expansion or construction which is allowed and must cross streams classified within this title, shall comply with the following minimum development standards:

1. Bridges or bottomless culverts shall be required for all Type S or F streams that have salmonid breeding habitat. Other alternatives may be allowed upon submittal of a habitat management plan that

demonstrates that other alternatives would not result in significant impacts to the fish and wildlife conservation area, as determined appropriate through the Washington State Department of Fish and Wildlife (WDFW), Hydraulic Project Approval (HPA) process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio.

2. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be relocated as determined by the Washington State Department of Fish and Wildlife (WDFW).

3. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists.

4. Crossings shall not diminish flood carrying capacity.

5. Crossings shall serve multiple properties whenever possible.

6. Where there is no reasonable alternative to providing a culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.

E. Stream Relocations. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with WDFW hydraulic project approval (HPA):

1. The channel, bank and buffer areas should be replanted with native vegetation that replicates a natural, undisturbed riparian condition; and

2. For those shorelands and waters designated as frequently flooded areas pursuant to Chapter 19.500, a professional engineer licensed in the state of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained.

3. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.

F. Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in fish and wildlife habitat conservation areas or their buffers, except those approved by the U.S. E.P.A. or Washington Department of Ecology for use in fish and wildlife habitat conservation area environments. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

G. Land Divisions and Land Use Permits. All proposed divisions of land and land uses (subdivisions, short subdivisions, short plats, long and large lot plats, performance based developments, conditional use permits, site plan reviews, binding site plans) that include fish and wildlife habitat conservation areas shall comply with the following procedures and development standards:

1. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.

2. Land division approvals shall be conditioned so that all required buffers are dedicated as open space tracts, or as an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan, and title.

3. In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this title, including buffer requirements for habitat conservation areas. This site shall also have access and a sewage disposal system location that are suitable for development and does not adversely impact the fish and wildlife conservation area.

4. After preliminary approval and prior to final land division approval, the department may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the department to provide adequate protection to the buffer.

5. In order to implement the goals and policies of this title; to accommodate innovation, creativity, and design flexibility; and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development; the use of the performance based development process is strongly encouraged for projects within designated fish and wildlife habitat conservation areas.

H. Agricultural Restrictions. In all development proposals that would permit introduction of agriculture to fish and wildlife habitat conservation areas, damage to the area shall be avoided by the installation of fencing located not closer than the outer buffer edge.

I. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in fish and wildlife habitat conservation areas or their buffers pursuant to the following standards:

1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas.
 2. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.
 3. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area.
 4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of twenty-five feet from the stream edge, except where stream crossings or viewing areas have been approved.
 5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is demonstrated need, subject to review and approval by the department. Trails shall be constructed with pervious materials unless otherwise approved by the department.
- J. Utilities. Placement of utilities within designated fish and wildlife habitat conservation areas may be allowed pursuant to the following standards:
1. The normal and routine utility maintenance or repair authorized in Section 19.100.125 shall be allowed within designated fish and wildlife habitat conservation areas, subject to best management practices.
 2. Construction of utilities may be permitted in fish and wildlife habitat conservation areas or their buffers, only when no practicable or reasonable alternative location is available. Utility construction shall adhere to the development standards set forth in (5) and (6), below. As required, special reports (Chapter 19.700) shall be reviewed and approved by the department.
 3. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas or their buffers when the applicant demonstrates it is necessary to meet state and/or local health code requirements; there are no other practicable alternatives available, and construction meets the requirement of this chapter. Joint use of the sewer utility corridor by other utilities may be allowed.
 4. New utility corridors shall not be allowed in Class I or II fish and wildlife habitat conservation areas (Section 19.300.310(B) and (C)) except in those circumstances where an approved HMP indicates that the utility corridor will not significantly impact the conservation area.
 5. Utility corridor construction and maintenance shall protect the environment of fish and wildlife habitat conservation areas and their buffers.
 - a. New utility corridors shall be aligned when possible to avoid cutting trees greater than twelve inches in diameter at breast height (four and one-half feet) measured on the uphill side.
 - b. New utility corridors shall be revegetated with appropriate native vegetation at not less than pre-construction vegetation densities or greater, immediately upon completion of construction, or as soon thereafter as possible due to seasonal growing constraints. The utility entity shall ensure that such vegetation survives.
 - c. Any additional corridor access for maintenance shall be provided wherever possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than fifteen feet; and shall be contiguous to the location of the utility corridor on the side away from the conservation area.
 6. Utility corridor maintenance shall include the following measures to protect the environment of regulated fish and wildlife habitat conservation areas.
 - a. Utility towers shall be painted with brush, pad or roller and shall not be sandblasted or spray painted, unless appropriate containment measures are used, nor use lead-base paints.
 - b. No pesticides or fertilizers may be used in fish and wildlife conservation areas or their buffers, except those herbicides approved by the U.S. E.P.A. and the Washington State Department of Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.
- K. Bank Stabilization. A stream channel and bank, bluff, and shore may be stabilized when documented naturally occurring earth movement presents an imminent threat to existing structures (defined as requiring a building permit pursuant to Chapter 14.04 of this code, the Kitsap County Building and Fire Code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control and improved water quality.

1. Bluff, bank and shoreline stabilization shall also be subject to the standards of Title 22 of the Kitsap County Code (Shoreline Management Master Program), and of Title 15 of the Kitsap County Code (Flood Hazard Areas). Documentation of earth movement and/or stability is provided through Section 19.700.725 (Special Reports), geological and geotechnical report requirements.

2. Where bank stabilization is determined to be necessary, soft-shore protective techniques may be required over other types of shoreline protection. Techniques include, but are not limited to beach nourishment, coarse beach fill, gravel berms, vegetation plantings, and placement of large, woody debris (logs and stumps). Special consideration shall be given to protecting the functions of feeder bluffs.

3. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated through a geotechnical report (See Section 19.700.725) that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum length necessary to provide a stable building area for the subject structure. A variance pursuant to Section 19.100.135 must be obtained in all other cases.

4. The department may require that bank stabilization be designed by a professional engineer licensed in the state of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a Kitsap County site development activity permit per Title 12 of this code (Stormwater Management) and a Hydraulic Project Approval (HPA) from the WDFW.

L. Fencing and Signs. Prior to approval or issuance of permits for land divisions and new development, the department may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the department to provide adequate protection to the buffer.

M. Forest Practice, Class IV General and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this title, and with Title 12 (Stormwater Management) and Title 22 (Shoreline Management) of the Kitsap County Code, including the maintenance of buffers, where required.

N. Road/Street Repair and Construction. When no other reasonable or practicable alternative exists road or street expansion or construction is allowed in fish and wildlife habitat conservation areas or their buffers, subject to the following minimum development standards:

1. The road or street shall serve multiple properties whenever possible;
2. Public and private roads should provide for other purposes, such as utility corridor crossings, pedestrian or bicycle easements, viewing points, etc.; and
3. The road or street construction is the minimum necessary, as required by the department, and shall comply with the department's guidelines to provide public safety and mitigated stormwater impacts; and
4. Construction time limits shall be determined in consultation with WDFW in order to ensure habitat protection.

(Ord. 376 (2007) § 5, 2007; Ord. 351 (2005) § 32, 2005)

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**Chapter 19.400
GEOLOGICALLY HAZARDOUS AREAS**

Sections:

- 19.400.405 Purpose.
- 19.400.410 Geologically hazardous area categories.
- 19.400.415 Development standards.

19.400.405 Purpose.

This section applies to all regulated uses included in this title within the largest buffer or setback in areas designated as geologically hazardous areas, as categorized in Section 19.400.410 below. The intent of this section is to:

- A. Provide standards to protect human life and property from potential risks;
- B. Regulate uses of land in order to avoid damage to structures and property being developed and damage to neighboring land and structures;
- C. Control erosion, siltation, and water quality to protect anadromous and resident fish and marine shellfish;
- D. Provide controls to minimize shoreline erosion caused by human activity;
- E. Use innovative site planning by placing geologically hazardous areas and buffers in open space and transferring development density to more suitable areas on the site.

(Ord. 351 (2005) § 30, 2005; Ord. 217 (1998) § 3, (part), 1998)

19.400.410 Geologically hazardous area categories.

- A. Classification. The following categories shall be used in classifying geologically hazardous areas.
 - 1. Areas of High Geologic Hazard.
 - a. Areas with slopes greater than or equal to 30 percent and mapped by the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County as "Unstable" (U), "Unstable Old Land Slides" (UOS) or "Unstable Recent Slides" (URS).
 - b. Areas with slopes greater than or equal to 30 percent in grade and deemed by a qualified geologist or geotechnical engineer to meet the criteria of U, UOS, or URS.
 - 2. Areas of Moderate Geologic Hazard.
 - a. Areas designated U, UOS, or URS in the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County, with slopes less than 30 percent; or areas found by a qualified geologist to meet the criteria for U, URS, and UOS with slopes less than 30 percent; or
 - b. Slopes identified as "Intermediate" (I) in the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County, or areas found by qualified geologist to meet the criteria of I; or
 - c. Slopes 15 percent or greater, not classified as I, U, UOS, or URS, with soils classified by the U.S. Department of Agriculture Natural Resources Conservation Service as "highly erodible" or "potentially highly erodible"; or
 - d. Slopes of 15 percent or greater with springs or groundwater seepage not identified in subsections (a), (b) or (c) above; or
 - e. Seismic Areas subject to liquefaction from earthquakes (Seismic Hazard Areas) such as hydric soils as identified by the Natural Resources Conservation Service, and areas that have been filled to make a site more suitable. Seismic areas may include former wetlands which have been covered with fill.
- B. Site Specific Determinations. A geologic or geotechnical report is a site investigation process to evaluate the on-site geology affecting a subject property and proposed development. Should an applicant question the information the county must rely on to determine whether a location contains a geologically hazardous area or area of geologic concern, the county may ask the applicant to submit the appropriate geotechnical or geologic report to confirm or modify the existing information known about the area. The requirements for reports are contained in Special Reports, Chapter 19.700.

The intent of this provision is to allow obviously non-geologically hazardous sites to be determined as such. Where there is any ambiguity about the potential for geologic hazards whatsoever, the department will require a geotechnical or geological report, rather than make a non-geologically hazardous determination.

(Ord. 351 (2005) § 31, 2005; Ord. 217 (1998) § 3, (part), 1998)

19.400.415 Development standards.

This section applies to all regulated uses within designated geologically hazardous areas and their setbacks.

A. **Review.** Where applicable the department will approve, approve with conditions or deny the development proposal based on the department's evaluation of site-specific conditions. The department will also consider any proposed mitigation measures included in a geotechnical report, if one is required.

B. **Minimum Buffer Requirement.** The buffer for all geologically hazardous areas shall include native vegetation from the toe of the slope to twenty-five feet beyond the top of the slope unless otherwise allowed through a geological report or a site-specific determination (Refer to Section 19.400.410(B)).

C. **Building/Impervious Surface Setback Requirements.**

1. **Areas of High Geologic Hazard.** Minimum building and impervious surface setback from the top of slope shall be equal to the height of the slope (1:1 horizontal to vertical) plus the greater of one-third of the vertical slope height or twenty-five feet.

2. **Areas of Moderate Geologic Hazard.** Minimum building and impervious surface setback shall be forty feet from the top of slope. As required in Section 19.400.410(B), above, the twenty-five feet adjacent to the top of the slope shall be retained as a native vegetation buffer, with an additional minimum fifteen-foot building and impervious surface setback. The department may decrease the setback when such a setback would result in a greater than 1:1 slope setback or as may be allowed under Section 19.400.410(B) (Site Specific Determinations).

3. **Toe of Slope Building Setback.** A geotechnical report may be required based on slope height and stability indicators. Where slope hazard indicators are not identified, the requirements of Title 14.04 of this code, the Kitsap County Building and Fire Code will apply.

D. **Buffer and Building Setback Modifications.**

1. **Report Recommendations.** The minimum native vegetation buffer and/or building setback requirement may be decreased if a geotechnical report demonstrates that a lesser distance, through design and engineering solutions, will adequately protect both the proposed development and the erosion hazard and/or landslide hazard area (See Chapter 19.700). Should the geotechnical report indicate that a greater buffer and/or building setback are required than specified in subsections (B) and/or (C) above, the greater buffer and/or building setback shall be required. The department may determine through a site visit, a special report or mapping that an increased buffer and/or building setback is required from the critical area.

2. **Vegetation Removal.** Minor pruning of vegetation or tree removal for view enhancement, or elimination of danger trees to maintain slope integrity may be allowed, provided that such activity is approved by the department. The thinning of limbs on individual trees is preferred to the removal or topping of trees for view corridors. At a minimum, no more than thirty percent of the live tree crowns shall be removed. Total buffer thinning shall not exceed twenty-five percent.

E. **Seasonal Restrictions.** Clearing and grading shall be limited to the period between May 1 to October 1, unless the applicant provides an erosion and sedimentation control plan prepared by a professional engineer licensed in the state of Washington that specifically and realistically identifies methods of erosion control for wet weather conditions.

F. **Field Marking Requirements.** The proposed clearing for the project and all critical area buffers shall be marked in the field for inspection and approval by the department prior to beginning work. Field marking requirements for construction of a single-family dwelling will be determined on a case-by-case basis by the department. The field marking of all buffers shall remain in place until construction is completed, and final approval is granted by the department. Permanent marking may be required as determined necessary to protect critical areas or its buffer.

G. **Cut and Fill Slopes.** The faces of all cut and fill slopes shall be protected to prevent erosion as required by the engineered erosion and sedimentation control plan.

H. **Storm Water Standards.** Storm water discharges shall be in compliance with Title 12 of this code (Storm Water Management).

I. **Development Risk Standard.** In cases where a special report indicates a significant risk to public health, safety and welfare, the department shall deny or require revision of the site development proposal.

J. **Additional Clearing Standards.**

1. Only the clearing necessary to install temporary erosion control measures will be allowed prior to the clearing for roads and utilities construction.

2. Clearing for roads and utilities shall be the minimum necessary and shall remain within marked construction limits.

3. Clearing for overhead power lines shall be the minimum necessary for construction and will provide the required minimum clearances of the serving utility corridor.

K. Existing Logging Roads. Where existing logging roads occur in geologically hazardous areas, a geological or geotechnical report (See Section 19.700.725) may be required prior to use as a temporary haul road or permanent access road under a conversion or COHP forest practices application.

L. Clustering Requirements. The department may require clustering to increase protection to geologically hazardous areas.

M. Vegetation Enhancement. The department may require enhancement of buffer vegetation to increase protection to geologically hazardous areas.

N. Seismic Hazard Area Development Standards.

1. Proposed new development within a seismic hazard area shall be in accordance with Chapter 14.04 of this code, the Kitsap County Building and Fire Code.

2. Applicants for public and commercial building proposals within seismic hazard areas shall submit a geotechnical report (See Section 19.700.725) addressing any fill or grading that has occurred on the subject parcel. Any fill placed for such development shall have documented construction monitoring as required by Title 14.04 of this code, the Kitsap County Building and Fire Code.

3. The development proposal may be approved, approved with conditions or denied based on the department's evaluation of the proposed mitigation measures in the geotechnical report to reduce seismic risk.

O. Prohibitions.

1. Critical facilities, as defined in Chapter 19.150, are prohibited in areas of high geologic hazard.

2. In areas of high geologic hazard with slopes greater than eighty percent, no development will be allowed either on or within the defined buffer area, unless approved by the department after review of a geotechnical report. The defined buffer zone for geologically hazardous areas is defined in subsection (C) above.

3. On-site sewage disposal should be avoided in areas of high geologic hazard and their buffers. In cases where such areas cannot be avoided, review by a geologist or a geotechnical engineer licensed in the state of Washington will be required in coordination with the Kitsap County Health District.

(Ord. 351 (2005) § 32, 2005)

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Chapter 19.500
FREQUENTLY FLOODED AREAS

Sections:

19.500.505 Purpose.

19.500.505 Purpose.

The purpose of this section is to protect the public health, safety and welfare from harm caused by flooding. It is also the intent to prevent damage and/or loss to both public and private property. In addition, this section will give special consideration to anadromous fish habitat in combination with Chapter 19.300, Fish and Wildlife Habitat Conservation Areas. To fulfill this purpose, Kitsap County uses the Title 15 of this code (Flood Hazard Areas), adopted by reference, which designates special flood hazard areas and establishes permit requirements for these areas.

In addition, the Kitsap County Geographic Information System (GIS) database for critical drainage areas, as defined in Title 12 of the Kitsap County Code (Stormwater), will be included for areas of review under Frequently Flooded Areas.

(Ord. 351 (2005) § 33, 2005; Ord. 217 (1998) § 3, (part), 1998)

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**Chapter 19.600
CRITICAL AQUIFER RECHARGE AREAS**

Sections:

- 19.600.605 Purpose.
- 19.600.610 Critical aquifer recharge area categories.
- 19.600.615 Development standards.
- 19.600.620 Activities with potential threat to groundwater.

19.600.605 Purpose.

Potable water is an essential life-sustaining element. The majority of Kitsap County drinking water comes from groundwater supplies in aquifers. Critical aquifer recharge areas are very important to shallow and deepwater aquifer recharge. The intent of this chapter is to identify and classify aquifer recharge areas in accordance with RCW 36.70A.170 and address land use activities that pose a potential to contaminate or otherwise threaten aquifer water quality. This section shall not affect any right to use or appropriate water as allowed under state or federal law. In addition, these requirements do not apply to those activities, which have potential contaminant sources below threshold amounts as set forth in applicable statutes of the Revised Code of Washington or local regulations.

It is the policy of Kitsap County to accomplish the following:

- A. Identify, preserve and protect aquifer recharge areas, identify areas susceptible to contamination and prevent degradation of the quality of potable groundwater;
- B. Recognize the relationship between surface and groundwater resources; and
- C. Give priority to potable water resource areas per WAC 365-190-080(2) in the planning and regulation of land uses that may contaminate or degrade groundwater.
- D. Balance competing needs for water supply while preserving essential natural functions and processes.

(Ord. 351 (2005) § 34 (part), 2005)

19.600.610 Critical aquifer recharge area categories.

As defined at Section 19.150.210, a critical aquifer recharge area means those land areas that contain hydrogeologic conditions that facilitate aquifer recharge and/or transmit contaminants to an underlying aquifer. Critical aquifer recharge areas under this title may be established based on general criteria, specifically designated due to special circumstances, or based on scientific studies and mapping efforts. Factors considered in the identification of critical aquifer recharge areas include depth to water table, presence of highly permeable soils (specifically Group A Hydrologic Soils), presence of flat terrain, and the presence of more permeable surficial geology.

A. Category I Critical Aquifer Recharge Areas. Category I critical aquifer recharge areas are those areas where the potential for certain land use activities to adversely affect groundwater is high. Category I critical aquifer recharge areas include:

1. Areas inside the five-year time of travel zone for Group A water system wells, calculated in accordance with the Washington State Well Head Protection Program.
2. Areas inside the ten-year time of travel zones in wellhead protection areas when the well draws its water from an aquifer that is at or above sea level and is overlain by permeable soils without an underlying protective impermeable layer.
3. Areas identified as significant recharge areas due to special circumstances or identified in accordance with WAC 365-190-080(2)(c) as aquifer areas of significant potable water supply with susceptibility to groundwater contamination, including but not limited to the following:
 - a. Hansville Significant Recharge Area. The Hansville aquifer is a significant potable water supply that is highly susceptible to the introduction of pollutants. Additional information regarding this aquifer is available from the Kitsap Public Utility District.
 - b. Seabeck Significant Recharge Area. The Seabeck aquifer is a significant potable water supply that is being developed for use in central and north Kitsap County. Additional information regarding this aquifer is available from the Kitsap Public Utility District.

c. Island Lake Significant Recharge Area. The Island Lake aquifer is a significant potable water supply for the Silverdale area. Additional information regarding this aquifer is available from the Silverdale Water District.

d. Gorst Significant Recharge Area. Aquifers in the Gorst basin are highly susceptible to the introduction of pollutants and provide significant potable water supplies for the City of Bremerton.

e. Poulsbo Significant Recharge Area. The Poulsbo aquifer is highly susceptible to the introduction of pollutants and provides a significant potable water supply for the Kitsap Public Utility District and City of Poulsbo.

4. The department may add, reclassify or remove critical aquifer recharge areas based on additional information about areas of significant potable water supply with susceptibility to groundwater contamination or based on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs.

B. Category II Critical Aquifer Recharge Areas. Category II critical aquifer recharge areas are areas that provide recharge effects to aquifers that are current or potentially will become potable water supplies and are vulnerable to contamination based on the type of land use activity. The general location of these areas is available on the Kitsap County geographic information system. Category II critical aquifer recharge areas include:

1. Highly Permeable Soils (Group A Hydrologic Soils). The general location and characteristics of Group A Hydrologic Soils in Kitsap County is given in the Soil Survey of Kitsap County by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). The soil survey information is available on the Kitsap County geographic information system (GIS).

2. Areas Above shallow aquifers and/or surface areas which are not separated from the underlying aquifers by an impermeable layer that provides adequate protections from contamination to the aquifer (s) below. The general location of shallow aquifers in Kitsap County is based upon the professional judgment of licensed hydrogeologists with knowledge of the area. The location of shallow aquifers is available on the Kitsap County geographic information system (GIS).

3. Areas Above the Vashon Aquifer. Surface areas above the Vashon Aquifer which are not separated from the underlying aquifers by a poorly permeable layer that provides adequate protections to preclude the proposed land use from contaminating the Vashon aquifer below. Vashon aquifers in Kitsap County are typically mapped as "Qva" (Vashon advance aquifer) or "Qvr" (Vashon recessional aquifer) on geologic maps. Best available information concerning the location of Vashon aquifers is available on the Kitsap County geographic information system (GIS).

4. Areas with high concentration of potable water supply wells.

C. Mapping. Kitsap County, in coordination with water purveyors and other agencies, will produce maps indicating the location of critical aquifer recharge areas.
(Ord. 351 (2005) § 34 (part), 2005)

19.600.615 Development standards.

A. Category I Critical Aquifer Recharge Areas.

1. Land uses identified in Table 19.600.620 are prohibited in Category I critical aquifer recharge areas, unless a waiver is granted by the department; and

2. Requests for waivers for activities listed in Table 19.600.620 shall include a hydrogeological report (See Chapter 19.700, Special Reports) that includes a detailed risk-benefit analysis that considers credible, worst-case scenarios. The hydrogeological report shall evaluate potential impacts of a proposed land use or activity on both groundwater and surface water quality. The waiver will be evaluated and treated as a special use review and be reviewed by the department, the health district, affected tribes, and the affected water purveyors.

B. Category II Critical Aquifer Recharge Areas.

1. Applicants proposing operations that pose a potential threat to groundwater as listed in Table 19.600.620 in Category II aquifer recharge areas may be required to submit a hydrogeological report (See Chapter 19.700, Special Reports). The scope of the report shall be based on site-specific conditions.

2. The need for additional information will be determined by the department, the health district and the affected water purveyor. Based on the results of the report, controls, mitigation, and/or other requirements will be established as a prerequisite for the development proposal being approved.

C. Notification and Review.

1. Affected water purveyors, tribes and the Kitsap County Health District will be notified and invited to comment during the preliminary phases of the county's review process on the proposed land

use and potential impacts. The purveyor may recommend appropriate mitigation to reduce potential impacts. The department will consider these recommendations to develop appropriate permit conditions.

2. The department will also notify the health district and affected water purveyors through the environmental review process, when those development activities listed in Table 19.600.620 are proposed outside the areas designated critical aquifer recharge areas.

3. Land use decisions within Category I and II critical aquifer recharge areas may be appealed to the Kitsap County hearing examiner.

D. Stormwater. Stormwater infiltration best management practices shall be encouraged to the maximum extent possible as a first priority in stormwater management.
(Ord. 351 (2005) § 34 (part), 2005)

19.600.620 Activities with potential threat to groundwater.

**TABLE 19.600.620
ACTIVITIES WITH POTENTIAL THREAT TO GROUNDWATER**

A.	Above & Below Ground Storage Tanks	
	1.	Hazardous and industrial waste treatment
	2.	Hazardous and industrial waste storage
	3.	Hazardous material storage
B.	Animal Feedlots	
C.	Commercial Operations	
	1.	Gas stations/service stations/truck terminals
	2.	Petroleum distributors/storage
	3.	Auto body repairs shops/rust proofers
	4.	Auto chemical supply storers/retailers
	5.	Truck, automobile, and combustion engine repair shops
	6.	Dry cleaners
	7.	Photo processors
	8.*	Auto washes
	9.*	Laundromats
	10.*	Beauty Salons
	11.	Research or chemical testing laboratories, which handle significant quantities of hazardous materials
	12.	Food processors/meat packers/slaughter houses
	13.	Airport maintenance/fueling operation areas
	14.	Junk and salvage yards
	15.	Storing or processing manure, feed, or other agriculture by products by commercially permitted businesses
	16.	Large-scale storage or use of pesticides, insecticides, herbicides, or fertilizer by commercial or agricultural operations
	17.	Golf courses
	18.	Cemeteries

D.	Deep Injection Wells
1.	Waste-water disposal wells (wells that, after treatment, inject water back into the aquifer)
2.	Oil and gas activity disposal wells
3.	Mineral extraction disposal wells
E.	De-icing Salts Storage Piles
F.	Industrial Operations
1.	Furniture strippers/painters/finishers
2.	Concrete/asphalt/tar/coal companies
3.	Industrial manufacturers: chemicals, pesticides/herbicides, paper, leather products, textiles, rubber, plastic/fiberglass, silicone/glass, pharmaceuticals, electrical equipment
4.	Metal platers/heat treaters/smelters/annealers/descalers
5.	Wood preserves
6.	Chemical reclamation facilities
7.	Boat refinishers
8.	Hydrocarbon extraction
G.	Land Application
1.	Waste-water application (spray irrigation)
2.	Waste-water byproduct (sludge) application
3.	Petroleum refining waste application
4.	Hazardous waste applications
H.	Landfills
1.	Industrial hazardous and non-hazardous landfill
2.	Municipal sanitary landfill
I.	Material Transfer Operations
1.	Hazardous and industrial waste transfers
2.	Hazardous material transfers
J.	Materials Stockpiles
K.	Mining and Mine Drainage
L.	Onsite Septic Systems (Large Onsite Septic System or LOSS Category)
M.	Pipelines
1.	Hazardous and industrial waste transfer
2.	Hazardous material transfer
N.	Radioactive Disposal Sites and Processing of Radioactive Wastes
O.	Sand and Gravel Mining Operations

* If not on a sewer system with a treatment plant.

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Chapter 19.700 SPECIAL REPORTS

Sections:

- 19.700.705 Special reports.
- 19.700.710 Wetland delineation report.
- 19.700.715 Wetland mitigation report.
- 19.700.720 Habitat management plan (HMP).
- 19.700.725 Geotechnical report and geological report.
- 19.700.730 Hydrogeological report.

19.700.705 Special reports.

A. Purpose. The following special reports may be required to provide environmental information and to present proposed strategies for maintaining, protecting and/or mitigating critical areas:

1. Wetland Delineation Report/Wetland Mitigation Plan (Sections 19.700.710 and 19.700.715).
2. Habitat Management Plan (Section 19.700.720).
3. Geotechnical Report /Geological Report (Section 19.700.725).
4. Hydrogeological Report (Section 19.700.730).

B. When Required. Special reports shall be submitted by the applicant and approved by the department for regulated uses when required by this title for the protection of a critical area. Refer to specific critical area protection standards for when special reports are required.

C. Special Reports – Responsibility for Completion. The applicant shall pay for or reimburse the county for the costs incurred in the preparation of special reports or tests, and for the costs incurred by the county to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the applicant. The applicant shall pay permit fees or technical assistance fees as required by the Title 21 of the Kitsap County Code, as now or hereafter amended. In such circumstances where a conflict in the findings of a special report and the findings of the county in review of the special report exists, the applicant or affected party may appeal such decisions of the county pursuant to the procedures in Section 19.100.145 (Appeals).

D. Qualifications of Professionals. Any special report as described below shall be prepared by a professional (See Chapter 19.150, wherein “professionals” are described), and shall include his or her resume, or other list of qualifications, to aid the department in assessing these qualifications. (Ord. 351 (2005) § 36 (part), 2005)

19.700.710 Wetland delineation report.

A wetland delineation report shall include, but not be limited to, the following:

- A. Vicinity map;
- B. When available, a copy of a National Wetland Inventory Map (U.S. Fish and Wildlife Service) and/or a Kitsap County Wetland Inventory Map identifying the wetlands on or within two hundred fifty feet of the site;
- C. A site map setting forth all of the following:
 1. Surveyed wetland boundaries based upon a delineation by a wetlands specialist;
 2. Site boundary property lines and roads;
 3. Internal property lines, right-of-way, easements, etc.;
 4. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
 5. Contours at the smallest readily available intervals, preferably at two-foot intervals;
 6. Hydrologic mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the site area.
 7. Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets.
 8. The department may require an air photo with overlays displaying the site boundaries and wetland delineation.
- D. Location information (legal description, parcel number and address);

E. Discussion of wetland boundary. If the wetland extends outside the site, the delineation report shall discuss all wetland areas within two hundred fifty feet of the site, but need only delineate those wetland boundaries within the site;

F. General site conditions including topography, acreage, and surface areas of all wetlands identified in the Kitsap County Wetland Inventory Map and water bodies within one quarter mile of the subject wetland(s);

G. Hydrological analysis, including topography, of existing surface and known significant sub-surface flows into and out of the subject wetland(s);

H. Analysis of functional values of existing wetlands, including vegetative, fauna, and hydrologic conditions;

I. A summary of proposed activity and potential impacts to the wetland(s);

J. Recommended wetland category using the Washington State Wetlands Rating System Categories (See Chapter 19.800, Appendix "A"), including rationale for the recommendation;

K. Recommended buffer boundaries, including rationale for boundary locations;

L. Site plan of proposed activity, including location of all parcels, tracts, easements, roads, structures, and other modifications to the existing site. The location of all wetlands and buffers shall be identified on the site plan.

M. Administrative Wetland Boundary and Ranking Evaluation.

1. The department may delineate and evaluate wetland areas for any proposed single-family dwelling project listed in Chapter 19.200 (Wetlands), unless the applicant wishes to employ a qualified wetland biologist at the applicant's expense, or if such a report is required by the department. Fees may be collected for this determination and evaluation, as specified in Title 21 of the Kitsap County Code.

2. Methodology for delineation of the regulated wetland boundary shall be the "plant community assessment" procedure, which is described in the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter.

3. The wetland boundary shall be field-staked and this line shall be depicted on the building site plan application.

4. The regulated wetland boundary and regulated wetland buffer shall be identified on all grading, building site, utility or other development plans submitted on the project.

(Ord. 351 (2005) § 36 (part), 2005)

19.700.715 Wetland mitigation report.

As required by Section 19.200.250 (Wetland Mitigation Requirements), a mitigation plan shall be prepared. A detailed mitigation plan shall contain the following:

A. Executive summary which summarizes the project, its potential wetland related impacts, and the proposed mitigation to include the following information:

1. Applicant Name/Address/Phone.
2. Agent/Consultant.
3. Description of land use proposal.
4. Description of mitigation area.
5. Description of impact avoidance and minimization measures.
6. Description of unavoidable wetland impacts and mitigation measures:
 - a. Size (acres);
 - b. Wetland classification;
 - c. Hydrogeomorphic (HGM) classification;
 - d. Wetland rating;
 - e. Functions;
 - f. Compensation ratios used.
7. Explanation of other impacts to waters of the state.
8. Goals, objectives and monitoring period.

B. Project Description.

1. Type of development (existing and proposed land uses).
2. Project size.
3. Implementation schedule.
4. Project location, maps.
5. Project summary.

C. Ecological Assessment of Impact.

1. Impacts (acreage) and extent of disturbance to wetlands (wetland delineation).

2. Summary of historic and current on-site and nearby land uses (zoning designations).
3. Description of any known cultural resources on the site.
4. Description of the site in context of other wetlands/water bodies.
5. Description of the water regime.
6. Description of the soils.
7. Description of the plant communities.
8. Description of any fauna using the site.
9. Landscape position and geomorphology.
10. Description of functions provided.
11. Wetland category rating and buffer requirements.
- D. Mitigation Approach.
 1. Mitigation sequencing followed.
 2. Goals and objectives.
 3. Performance standards to assess each objective.
- E. Proposed Compensation Site.
 1. Site description (location, size, maps):
 - a. Ownership;
 - b. Total area of mitigation site (acres);
 - c. Current/past land use.
 2. Site selection rationale.
 3. Existing/baseline ecological conditions of the compensation site:
 - a. Acreage of existing wetlands and uplands;
 - b. National Wetland Inventory or local jurisdiction wetland mapping of the site;
 - c. Summary of historic and current on-site and nearby land uses (zoning designations);
 - d. Description of any known cultural resources on the site;
 - e. Description of the site in context of other wetlands/water bodies;
 - f. Description of the water regime;
 - g. Description of the soils;
 - h. Description of the plant communities;
 - i. Description of any fauna using the site;
 - j. Landscape position and geomorphology;
 - k. Description of functions provided;
 - l. Wetland rating of any existing wetlands, buffer requirements.
 4. Site constraints.
- F. Preliminary Site Plan.
 1. Explanation of how adequate hydrology will be provided.
 2. Discussion of how project was designed to provide the proposed functions.
 3. Schematic drawings: Change in topography:
 - a. Hydrologic structures;
 - b. Soils;
 - c. Vegetation distributions;
 - d. Habitat attributes;
 - e. Buffers.
 4. Section drawings showing relationship of topography to water regime and vegetation.
- G. Final Site Plan/Design.
 1. Site survey and topography.
 2. Water regime including:
 - a. Engineering drawings of water control structures;
 - b. Source of water (volume, velocity, hydro period).
 3. Soil amendments.
 4. Landscape plans:
 - a. Drawing of proposed plant distribution;
 - b. Location of existing or proposed upland buffers;
 - c. Section drawings showing relationship of topography to vegetation;
 - d. Erosion control;
 - e. Location of habitat structure;
 - f. Location of upland buffers;

- g. Soil amendments.
- 5. Construction specifications.
- H. Monitoring Plan.
 - 1. Vegetation.
 - 2. Water regime.
 - 3. Soils.
 - 4. Fauna.
 - 5. Functions and values.
 - 6. Development of habitat structure.
 - 7. Water quality.
 - 8. Buffers.
 - 9. Timetable for reporting monitoring results.
- I. Site Protection.
 - 1. Physical site protection.
 - 2. Legal protection.
 - 3. Buffers.
- J. Maintenance and Contingency Plans.
 - 1. Maintenance schedule.
 - 2. Contingency plan:
 - a. Initiating procedure;
 - b. Funding;
 - c. Responsible parties.
- K. Implementation Schedule.
 - 1. Construction schedule.
 - 2. Monitoring schedule.
 - 3. Reporting schedule.
 - 4. Financial assurance.

L. Permit Conditions. Any compensation project prepared pursuant to this section and approved by the department shall become part of the application for the permit. The department will require an additional growing season year for approval of mitigation plan unless the applicant requests an inspection for final monitoring year during the final monitoring year assessment.

M. Performance Bonds and Demonstration of Competence. A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. A performance bond, assignment of savings, or other like security will be required by the department in an amount necessary to provide for future site monitoring and possible corrective action required for compensatory mitigation projects. This bond, assignment of savings, or the security will be released no later than five years after completion of the mitigation project. If the approved mitigation is not completed or fails to meet its success standards, the property owner must agree to a property access release form, with forfeiture of funds after the specified monitoring period.

N. Waiver. The department may waive portions of this report if, in its opinion, there is adequate information available on the site to determine its impacts and appropriate measures.

O. List of Qualified Consultants. The department shall establish a list of qualified consultants to prepare mitigation plans.

(Ord. 351 (2005) § 36 (part), 2005)

19.700.720 Habitat management plan (HMP).

A. A HMP is a site investigation report to evaluate the potential presence or absence of a regulated fish or wildlife species or habitat affecting a subject property and proposed development. This report shall identify how development impacts to fish and wildlife habitat from a proposed project will be mitigated. WDFW Priority Habitat and Species (PHS) management recommendations, dated May 1991, or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, may serve as guidance for this report.

B. The HMP shall contain a map prepared at an easily readable scale, showing:

- 1. The location of the proposed development site;

2. The relationship of the site to surrounding topographic, water features, and cultural features;
 3. Proposed building locations and arrangements;
 4. A legend which includes a complete legal description, acreage of the parcel, scale, north areas, and date of map revision; and
 5. A WDFW PHS Data Base search that is no older than one year from the project submittal.
- C. The habitat management plan shall also contain a report which describes:
1. The nature and intensity of the proposed development;
 2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and
 3. A discussion on how the applicant proposes to mitigate any adverse impacts to wildlife habitats created by the proposed development. (See Sections 19.700.710 and 19.700.715, Wetland Report/Wetland Mitigation Plan requirements.).
- D. Examples of mitigation measures to be included in the HMP report, include, but are not limited to:
1. Establishment of Buffer Zones. When applicable, the order of sequence for buffer reductions shall be as follows methods for buffer reduction may include the following:
 - a. Use of buffer averaging maintaining one hundred percent of the buffer area under the standard buffer requirement;
 - b. Reduction of the overall buffer area by no more than twenty-five percent of the area required under the standard buffer requirement;
 - c. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
 - d. The use of alternative on-site wastewater systems in order to minimize site clearing;
 - e. Infiltration of stormwater where soils permit; and
 - f. Retention of existing native vegetation on other portions of the site in order to offset habitat loss from buffer reduction.
 2. Preservation of native plants and trees that is essential to maintaining habitat function;
 3. Limitation of access to habitat areas;
 4. Seasonal restriction of construction activities; and
 5. Establishing phased development requirements and/or a timetable for periodic review of the plan.
- E. A HMP shall be prepared by a fish or wildlife biologist, as defined at Sections 19.150.330 and 19.150.720. For proposed single-family dwelling construction, the department may complete the plan. Fees may be collected for this plan as specified in Title 21 of the Kitsap County Code. Where this plan is required for the protection of an eagle habitat, the eagle habitat management plan shall meet bald eagle management rules and will normally be prepared by the WDFW.
(Ord. 351 (2005) § 36 (part), 2005)

19.700.725 Geotechnical report and geological report.

Whenever development is proposed in a geologically hazardous area or shoreline setback as defined in Chapters 19.300 and 19.400 of this title, or when the department determines that additional soils and slope analysis is appropriate on a particular site, the applicant is required to submit a geotechnical or geological report that evaluates the surface and subsurface soil conditions on the site.

A. Qualifications.

1. Geotechnical reports shall be prepared by a geotechnical engineer (defined at Section 19.150.370).
2. Geological reports may be prepared by a licensed geologist (Section 19.150.365), or geotechnical engineer (Section 19.150.370).

B. General Provisions. Report recommendations for earthwork, clearing or siting structures in geologically hazardous areas shall be based on existing site conditions rather than measures that have not yet been successfully approved, designed, or constructed (e.g., slope recontouring, slope retaining walls, vegetation improvements, bulkheads, etc.). Shoreline bulkheads and retaining walls may only be utilized only as an engineering solution where it can be demonstrated that:

1. An existing residential structure or other permitted existing public or private structures or public facilities such as roads or highways, cannot be safely maintained without such measures;
2. Other non-structural methods of beach stabilization have been considered and determined infeasible; and
3. The resulting stabilization structure is the minimum necessary to provide stability for the existing structure and appurtenances.

Minor repair activities on existing permitted structures (e.g., those that do not involve design modifications, changes in structure location, and/or demolition or abandonment of failed structure and replacement with new structure) are not subject to the following project submittal standards.

C. Geological Report Submittal Standards. A Geological Report is required for site development proposals that involve development activity or the installation of structures within a geologically hazardous area or shoreline setbacks, or as otherwise required pursuant to Chapters 19.300 and 19.400 of this title, but do not involve or require engineering design recommendations. The following minimum information is required:

1. Site information regarding the Kitsap County Shoreline Environment Designation and critical areas designations that affect site features.
2. Description of surface and subsurface conditions, including ground materials, vegetation, surface drainage, groundwater, and a preliminary geologic hazard assessment which includes the locations of structures and the identification of the slope and/or coastal processes occurring at the site and factors that contribute to them;
3. Review of available site information, literature, and mapping;
4. Detailed description of slope and other topographic features; and
5. Conceptual siting of structures and general recommendations, which include methods and practices that avoid and/or reduce slope and shore impacts. Minimum recommendations should include upland and slope drainage control, groundwater control, site vegetation management, and erosion control.

D. Geotechnical Report Submittal Standards. A geotechnical report is required when the department or a Geological Report determines that a site development proposal requires additional site information such as engineering design recommendations, slope stability analysis, subsurface exploration and testing, coastal process analyses, or construction recommendations. Depending on the level of activity proposed, the report will either be a more limited geotechnical slope evaluation report or a full geotechnical design investigation report as described below.

1. Geotechnical Slope Evaluation Report. A geotechnical slope evaluation report is required when slope stability analyses are confined to addressing only existing surface and/or drainage conditions, including the relationship of natural and constructed slope features to proposed changes in environmental conditions such as drainage, vegetation removal and slope geometry. The following minimum information is required:

- a. All the information required under subsection C, above (Geological Report);
- b. Subsurface data, exploration logs, and testing data, when required by the geotechnical engineer;
- c. Estimated (or surveyed) site plan with ground surface profiles and typical cross-sections;
- d. Relative location of Ordinary High Water (OHW) on the surface profile and cross-sections, which includes Mean Higher High Water (MHHW) for the site location, where applicable;
- e. Soil strength parameters;
- f. Stability analysis of existing site;
- g. Analysis of the relationship of vegetation and slope stability; and
- h. Conceptual site development plans and cross-sections.

2. Geotechnical Design Investigation Report. A geotechnical design investigation report is required for site development activities that propose design and construction measures at the slope crest, face and/or toe. If a designed structure does not impact slope stability or coastal processes, the report will not be required to perform all items listed under this section, as long as each item is addressed and the report details why a particular item does not apply. The report shall include all items considered necessary by the engineer to fully address the engineering design requirements of the site. The following minimum information is required:

- a. All the information required under subsection (D)(1), above (Geotechnical Report);
- b. Geotechnical requirements and measures to reduce risks;
- c. Geotechnical criteria used for any designs including all critical dimensions, lateral earth pressures, soil bearing pressures, location and limits of structures on or near the slope, maximum constructed slope angles, minimum soil reinforcement embedment, soil compaction requirements, and structure heights;
- d. Temporary construction slope stability recommendations and analysis of proposed final site stability measures;
- e. Required construction specifications and construction monitoring procedures;
- f. Revegetation and surface and groundwater management requirements;

- g. Evaluation of erosion potential, recommendations for erosion avoidance and any proposed mitigation measures;
- h. Detailed tabulation of all basic geotechnical engineering test results pertinent to design and construction, and when required for clarification, detailed examples of tests conducted for the project; and
- i. Information outlined in the geotechnical design investigation report site evaluation checklist (See subsection (F), below).

E. Additional Requirements for Sites in Geologically Hazardous Areas. When a project site is located within a landslide-prone geologically hazardous area, as classified in Section 19.400.410, the following additional project submittal requirements shall apply:

- 1. Erosion Control Information. An evaluation of the erosion potential on the site during and after construction is required. The evaluation shall include recommendations for mitigation, including retention of vegetative buffers and a revegetation program. The geotechnical engineer shall provide a statement identifying buffer areas at the top or toe of a slope based on geotechnical site constraints and the impacts of proposed construction methods on the erosion potential of the slope.
- 2. Seismic Information. The geotechnical engineer shall submit a statement that the design criteria consider the one-in-one-hundred-year seismic event (an earthquake ground motion that has a 40 percent probability of exceedance in 50 years). Calculations of soil bearing capacity, general soil stability, and wall lateral earth pressures shall be adjusted to reflect a one-in-100 year seismic event and the structural plans for the project shall be reviewed by the geotechnical engineer for consistency with these design criteria.

Analysis for the one-in-one-hundred-year seismic event shall be based on a near crustal event having an assumed magnitude of 6.5 and occurring directly below the site. Based on regional studies performed by others, the department will allow the use of the following minimum general values of horizontal peak ground accelerations for this event:

- a = 0.2g for fill, alluvial soils
- a = 0.17g for till, firm glaciated soils
- a = 0.15g for rock.

The appropriateness of the above accelerations shall be confirmed by the geotechnical engineer based on the actual site characteristics. Reduction in the above values may be considered when supported by the appropriate analytical evidence. Slope stability, lateral pressures, and liquefaction of the site shall be assessed by using subsurface soil, rock and groundwater conditions, as well as the seismic parameters discussed above.

- 3. Recommendations on Relative Site Stability. The geotechnical engineer shall make recommendations as to which portion of the site are the least prone to instability and the preferred location of the structure. The limits of any area proposed for grading activity shall be identified.
- 4. Construction Season Limitation. In general, no excavation will be permitted in landslide-prone geologically hazardous areas during the typically wet winter months. When excavation is proposed, including the maintenance of open temporary slopes, between October 1 and April 30, technical analysis shall be provided to ensure that no environmental harm, threat to adjacent properties, or safety issues would result. In addition, recommendations for temporary erosion control and shoring/mitigating measures shall be provided. The technical analysis shall consist of plans showing mitigation techniques and a technical memorandum from the geotechnical engineer.
- 5. Revisions to Geotechnical Report. Further recommendations shall be provided by the geotechnical engineer should there be additions or exceptions to the original recommendations based on the plans, site conditions, or other supporting data. If the geotechnical engineer who revises the plans and specifications is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the department, express his or her agreement or disagreement with the recommendations in the geotechnical report and state whether the plans and specifications conform to his or her recommendations.
- 6. Plan and Specification Review. The geotechnical engineer shall submit a statement that in his or her judgment, the plans and specifications (if prepared by others) conform to the recommendations in the geotechnical report and that all portions of the site which are disturbed or impacted by the proposed development have appropriate measures or specifications that permit construction to occur while addressing slope stability so that the work does not create additional risk. The statement shall also indicate whether or not a relative gain in slope stability will be achieved after construction is complete.

7. Construction Inspection. A final inspection report shall be provided by the geotechnical engineer stating that construction has or has not implemented the design recommendations of the geotechnical report, and evaluating of any deviation from the design recommendations.

F. Geotechnical Design Investigation Report – Site Evaluation Checklist. The following are general report guidelines for geotechnical design investigation reports. The following guidelines are not intended to be all-inclusive. It is the responsibility of the geotechnical engineer to address all factors, which in their opinion are relevant to the site. The checklist information shall be included as part of the geotechnical design investigation report. All items listed below must be addressed in the report. Information shall be provided for those items, which are not relevant to a given site to demonstrate why the items are not applicable.

1. Project Information:
 - a. Site Owner Name;
 - b. Project Proponent Name;
 - c. Shoreline Environment Designation (where applicable); and
 - d. Critical Areas Ordinance (CAO) designations affecting site features.
 2. Project Description:
 - a. Description of proposed structures, site improvements, and adverse impact avoidance and reduction methods.
 - b. Location and total area of the construction zone.
- (Ord. 351 (2005) § 36 (part), 2005)

19.700.730 Hydrogeological report.

The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer.

A. The report shall be submitted to the department and shall address, at a minimum, the following criteria:

1. Surficial soil type and geologic setting;
2. Location and identification of wells within 1,000 feet of the site;
3. Location and identification of surface water bodies and springs within 1,000 feet of the site with recharge potential;
4. Description of underlying aquifers and aquitards, including water level, gradients and flow direction;
5. Available surface water and groundwater quality data;
6. Effects of the proposed development on water quality;
7. Sampling schedules required to assure water quality;
8. Discussion of the effects of the proposed development on the groundwater resource;
9. Recommendations on appropriate BMPs (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality; and
10. Other information as required by the Kitsap County Health District.
11. The report shall also address the types of pesticides, herbicides and fertilizers that can safely be used for the care of landscaping proposed by the applicant.

B. The hydrogeologic report shall be prepared by a professional geologist/hydrologist or by a soil scientist with a strong background in geology (See Section 19.150.365).

C. Applications for development or operations with underground storage of petroleum products will be processed using the appropriate procedure as specified in existing Kitsap County ordinances.

D. Analysis for a specific parcel(s), using the criteria outlined below, will be employed to confirm if the soils present require a recharge area designation. Data collection will include, at a minimum, six soil logs to a depth of ten feet (or to a depth four feet below the lowest proposed excavation point whichever is greater) for each acre in the parcel(s) being evaluated. At least one well, two hundred feet or greater in depth with an adequate drilling report, must be available within one mile. The associated data shall be analyzed and included in the hydrogeologic report to determine the presence of highly permeable soils with the recharge area designation.

For development proposals within aquifer recharge areas of concern, the hydrogeological report may be based on quarter-quarter section basis where the number of wells within a half-mile radius is thirty-six or more. To facilitate computer analysis, the evaluation may be done on a quarter-quarter section basis using the quarter-quarter section in which a parcel of interest is located and all the surrounding quarter-quarter sections, in place of the half-mile circle.

(Ord. 351 (2005) § 36 (part), 2005)

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**Chapter 19.800
APPENDICES**

The purpose of the appendices is to provide supporting documentation to assist in the implementation of the ordinance codified in this title.

Contents:

- Appendix A Washington State Wetlands Rating System Categories.
- Appendix B Washington State DNR Stream Typing System.
- Appendix C Kitsap County GIS Database of Critical Areas Information.
- Appendix D Site Development Figures.
- Appendix E Kitsap County Critical Area and Buffer Notice to Title.
- Appendix F Critical Area Decision Types.
- Appendix G Kitsap County Department of Community Development Wetland Buffer Alteration General Authorization Form.

Appendix A – Washington State Wetlands Rating System Categories (See Section 19.200.210)

This system utilizes a four-tier process. The following text includes an additional categorization system for wetlands.

A. Category I Wetlands are:

1. Wetlands that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions.

2. Wetlands with high quality native or regionally rare wetland communities with irreplaceable ecological functions including, but not limited to, sphagnum bogs and fens, estuarine wetlands, mature forested wetlands, or wetlands which qualify for inclusion in the Natural Heritage Information System.

3. Wetlands scoring 70 points or more (out of 100) on the questions related to functions in the *Washington State Wetland Rating System for Western Washington*, Revised 2004.

B. Category II Wetlands are:

1. Wetlands that are difficult, though not impossible, to replace, and provide high levels of some functions.

2. Wetlands which are disturbed and may be estuarine and interdunal greater than 1 acre.

3. Wetlands scoring between 51 – 69 points (out of 100) on the questions related to functions in the *Washington State Wetland Rating System for Western Washington*, Revised 2004.

C. Category III Wetlands are:

1. Wetlands that are 1) wetlands with a moderate level of functions (scores between 30 – 50 points) and 2) interdunal wetlands between 0.1 and 1 acre in size.

2. Wetlands scoring between 30 – 50 points and have generally been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

D. Category IV Wetlands are:

1. Wetland with the lowest levels of function (scores less than 30 points) and are often heavily disturbed.

2. Wetlands that may provide some important functions and have a high probability for successful replacement and/or improvement.

(Ord. 351 (2005) § 37 (part), 2005)

Appendix B – Washington State Department of Natural Resources Stream Typing System

Water Type Conversion Table

Permanent Water Typing	Previous Water Typing
Stype S	Type 1
Type F	type 2 and 3

Type Np

Type 4

Type Ns

Type 5

A. **"Type S Streams"** are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(1) as now or hereafter amended, as a Type S Water and are inventoried as "Shorelines of the State" under the Shoreline Management Master Program for Kitsap County, pursuant to RCW Chapter 90.58. Type S waters contain salmonid fish habitat.

B. **"Type F Streams"** are those surface waters, which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(2) as now or hereafter amended, as Type F Water. Type F streams contain habitat for salmonid fish, game fish and other anadromous fish.

C. **"Type Np Streams"** are those surface waters, which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(3) as now or hereafter amended, as Type Np Water. Type Np waters do not contain fish habitat.

D. **"Type Ns Streams"** are those surface waters, which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(4) as now or hereafter amended, as a Type Ns Water. These streams are areas of perennial or intermittent seepage, ponds, and drainage ways having short periods of spring or storm runoff. Type Ns waters do not contain fish.

(Ord. 351 (2005) § 36 (part), 2005)

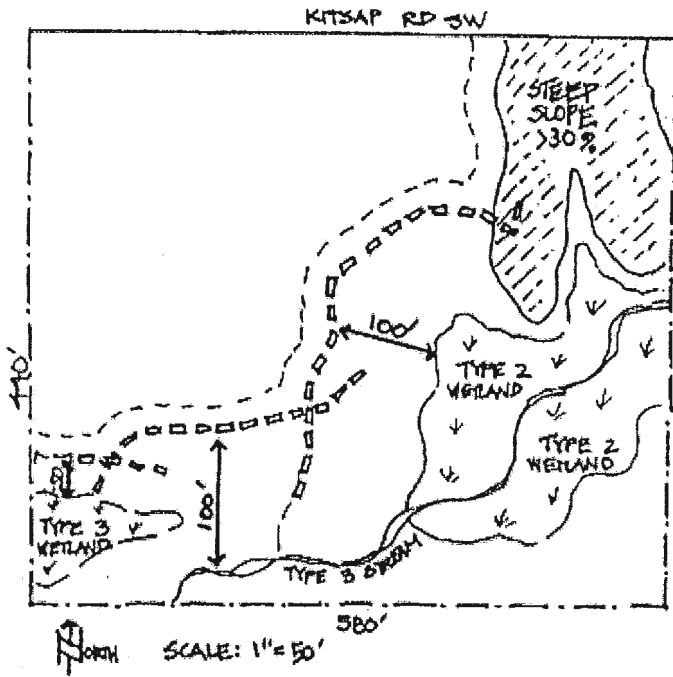
Appendix C – Kitsap County's GIS Database of Critical Areas Information

CRITICAL AREA	GIS DATA	INFORMATION SOURCE
Wetlands	National Wetlands Inventory Soil Survey of Kitsap County	U.S. Fish and Wildlife Service U.S. Dept. of Agriculture — Natural Resource Conservation Service
Fish And Wildlife Habitat Conservation Areas	National Wetlands Inventory Non-game & Priority Species Habitat Database Washington Rivers Information System Database Waters of Washington State Washington Coastal Zone Atlas	U.S. Fish and Wildlife Service WA. Dept. of Fish and Wildlife WA. Dept. of Fish and Wildlife WA. Dept. of Natural Resources WA Dept. of Ecology
Frequently Flooded Areas	Flood Insurance Rate Map	Federal Emergency Management Agency
Geologically Hazardous Areas	Washington Coastal Zone Atlas Soil Survey of Kitsap County Quaternary Geology and Stratigraphy of Kitsap County Light Distancing and Radar (LiDAR) Mapping	WA Dept. of Ecology U.S. Dept. of Agriculture — Natural Resource Conservation Service Jerald Deeter, 1979 Puget Sound LiDAR Consortium
Aquifers	Critical Aquifer Recharge Areas Aquifer Recharge Areas of Concern Principal Aquifers Soil Survey of Kitsap County	Kitsap Public Utilities District (PUD) #1 Kitsap PUD #1 Kitsap PUD #1 U.S. Dept. of Agriculture — Natural Resource Conservation Service

(Ord. 351 (2005) § 37 (part), 2005)

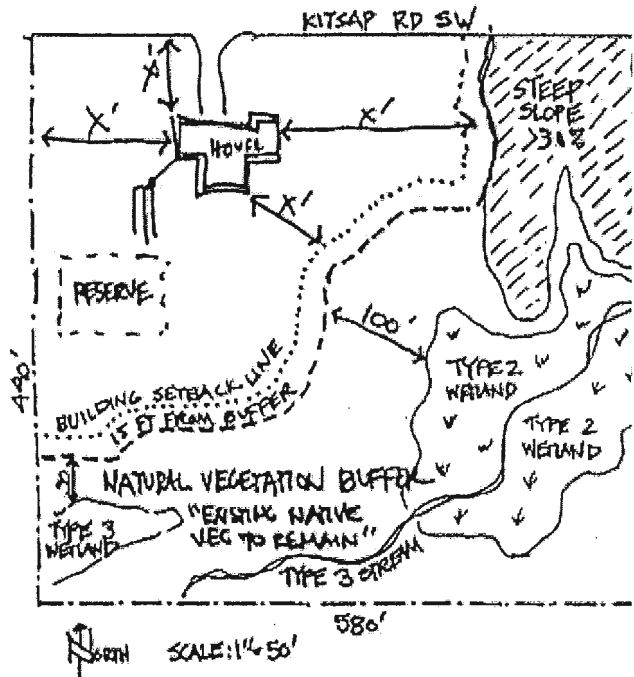
Appendix D – Site Development Figures

Protecting Critical Areas in Residential Sites



Site Characteristics Before Development

The site drawing above shows the location and types of critical areas and the required buffers.

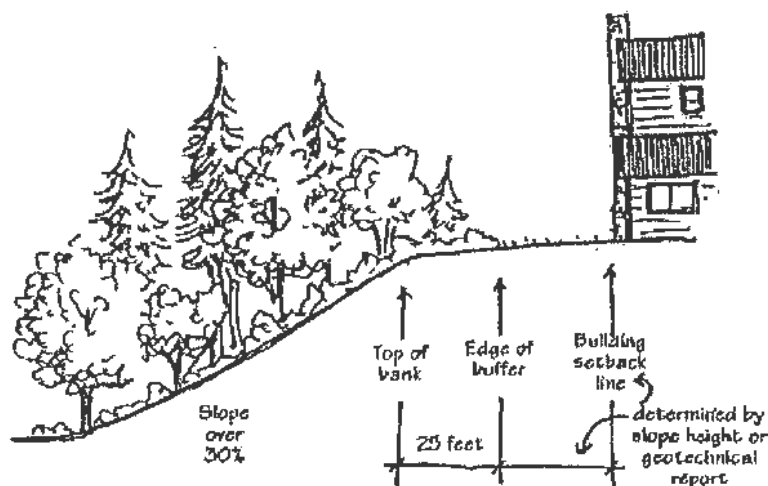
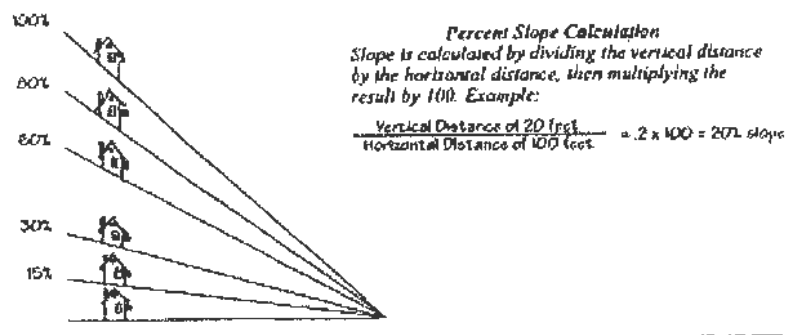


Site Plan Showing Development

You must identify specific items on your site plan development proposal:

- Location of known critical areas
- Location of the proposed building
- Distance of proposed building from critical areas
- Required vegetated buffer widths on critical areas (Make a note on the plan which reads, "Natural vegetation buffer; existing natural vegetation to remain.")
- North arrow and plan scale

Site Applications



The 25-foot minimum vegetated buffer and building setback for slopes over 30%. Building setbacks are determined by the slope height or information from a geotechnical report.

Geologically Hazardous Areas

(Ord. 351 (2005) § 37 (part), 2005)

Appendix E – Kitsap County Critical Area and Buffer Notice

Return Address: KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

614 DIVISION STREET MS-36, PORT ORCHARD, WASHINGTON 98366-4682
 (360) 337-7181 FAX (360) 337-4925

KITSAP COUNTY CRITICAL AREA AND BUFFER NOTICE

Tax Account# _____

Legal Description _____

Present Owner (please print) _____

NOTICE: The subject property contains a critical area and/or its required buffer as defined by Title 19 Kitsap County Critical Areas Ordinance. The property was the subject of a development proposal for:

_____ filed on _____
 type of permit application # month / day / year

Restrictions on use or alteration of the critical area and/or its buffer may exist due to natural conditions of the property and resulting regulations. Review of such application has provided information on the location of the critical area and/or its buffer and restrictions on their use through setback areas. A copy of the plan showing such setback areas is included in the above-referenced permit file. Any alterations to the critical area and/or its buffer will be subject to further review for compliance with the Kitsap County Critical Area Ordinance.

EXECUTED this _____ day of _____, 2_____

 Owner/Agent

STATE OF WASHINGTON)
)
 COUNTY OF KITSAP)

On this day, before me, personally appeared _____, to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the ___ day of _____, 2_____

Notary Seal _____

NOTARY PUBLIC in and for the State of Washington

My Commission Expires: _____

(Ord. 351 (2005) § 37 (part), 2005)

Appendix F – Critical Area Decision Types

Below are the decisions and their respective decision-making bodies included in Title 19 of the Kitsap County Code.

CRITICAL AREA DECISION TYPES			
	Type I	Type II	Type III
Written Notice (To Interested Parties and Neighbors Within 400 feet of Project)	No	Yes	Yes

Decision Making Body	Director	Director	Hearing Examiner (Public Hearing)
WETLANDS			
Uses within Wetlands and Buffers	X		
Mitigation Plans/Requirements	X		
Buffer Averaging	X		
Administrative Buffer Reduction (<25%)	X		
Variance (>25%)			X
Appeals			X
STREAMS AND SHORELINES			
Buffer Averaging	X		
Administrative Buffer Reduction (<25%)	X		
Administrative Buffer Reduction (25-50%)		X	
Variance (>50%)			X
Appeals			X
WILDLIFE CONSERVATION AREAS			
Habitat Management Plan Approval	X		
Appeals			X
GEOLOGICALLY HAZARDOUS AREAS (STEEP SLOPES)			
Buffer/Setback Reduction (with Geotechnical Report Approval)	X		
Appeals			X
CRITICAL AQUIFERS RECHARGE AREAS			
Hydrological Report Approval	X		
Appeals			X

(Ord. 351 (2005) § 37 (part), 2005)

**APPENDIX G – Kitsap County Department of Community Development Wetland Buffer
Alteration General Authorization Form.**

Wetland Buffer Alteration General Authorization Form

Application No. _____

1. Landowner _____ Phone _____
Mailing Address _____

2. Authorized Agent/Contact _____ Phone _____
Mailing Address _____

3. Person Responsible for Work _____ Phone _____
Mailing Address _____

4. Project Location _____

Watershed _____ Tax Acct No. _____
Adjacent Water Body (river, lake): _____
Township _____ Range _____ Section _____

5. Project Information

Total square footage of regulated buffer _____

Project Will:

Require _____ square feet of buffer averaging

Require _____ square feet of buffer reduction under 25% agreement

Enhance _____ square feet of buffer or _____ square feet of wetland

Restore _____ square feet of buffer or _____ square feet of wetland

6. Required Attachments (on 8.5" x 11" or 8.5" x 14" paper)

Vicinity map showing project location

Aerial photograph showing project boundaries

Photographs of the site and project areas

Site plan map and/or aerial photo showing:

- Location of existing structures, roads, streams and other pertinent features
- Location and approximate boundaries of existing wetlands
- Location and boundaries of proposed buffer alteration areas

I agree that the information provided above is accurate to the best of my knowledge.

Applicant Signature

Date

Return completed form and attachments to:
Kitsap County DCD
614 Division Street, MS-36
Port Orchard, WA 98366

(Ord. 351 (2005) § 37 (part), 2005)

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**Title 11
ROADS, HIGHWAYS AND BRIDGES**

Chapters:

- 11.04 Road District
- 11.08 Primary Road System
- 11.12 Countywide Road System
- 11.16 Maintenance of County Roads
- 11.20 Standard Road and Bridge Specifications
- 11.22 Kitsap County Road Standards ←
- 11.24 (Repealed)
- 11.28 (Repealed)
- 11.32 Accommodation of Utilities on Road Right-of-way
- 11.36 Permits and Standards for Use and Improvements to County Right-of-Way
- 11.40 Street Lighting
- 11.42 Vacation of County Roads

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Chapter 11.22
KITSAP COUNTY ROAD STANDARDS

Sections:

<u>11.22.010</u>	Declaration of title.
<u>11.22.020</u>	Authority and intent.
<u>11.22.030</u>	County engineer's authority.
<u>11.22.040</u>	Definitions.
<u>11.22.050</u>	Application of standards.
<u>11.22.060</u>	Public maintenance.
<u>11.22.070</u>	Permits.
<u>11.22.080</u>	Technical deviation.
<u>11.22.090</u>	(Repealed)
<u>11.22.100</u>	Appeals.
<u>11.22.110</u>	Penalties – Enforcement.
<u>11.22.120</u>	Bonding – Insurance – Indemnification.
<u>11.22.130</u>	Fees.

11.22.010 Declaration of title.

The ordinance codified in this chapter shall be entitled the “Kitsap County Road Standards Ordinance.”

(Ord. 293 (2003) § 1, 2003)

11.22.020 Authority and intent.

Chapter 36.75 RCW requires that county roads be established, laid out, constructed, altered, repaired, improved, and maintained by the county or by private individuals or entities authorized to perform such work under an agreement with the county legislative authority. Such work and improvements shall be done in accordance with adopted county standards under the supervision and direction of the county engineer (hereafter the “road standards”).

It is the purpose of this chapter to provide for the safety, welfare and convenience of the traveling public within Kitsap County. In adopting this chapter, the county has sought to encourage standardization of road design elements where necessary for consistency and to assure, so far as practical, that motoring, bicycling, and pedestrian public safety needs are met. Considerations include safety, convenience, pleasant appearance, storm water management, and economical maintenance. The road standards also provide requirements for the location and installation of utilities within the right-of-way.

The road standards are not intended to discourage innovative approaches for design and construction of county roads and associated infrastructure. The application of low-impact development methods providing equal levels of safety, workmanship and environmental protection as the adopted standards is encouraged.

(Ord. 404 (2007) § 1, 2007; Ord. 293 (2003) § 2, 2003)

11.22.030 County engineer's authority.

The county engineer shall have the authority to develop and adopt road standards as the Kitsap County standards for road design and construction. The road standards and any amendments thereto shall be subject to thirty-days public review prior to adoption, and once adopted, shall be filed with the clerk of the board of county commissioners, and copies shall be made available through the Kitsap County department of public works and the Kitsap County department of community development. This chapter and the road standards shall be administered by the county engineer, or a designee. The county engineer shall have the authority to develop and implement procedures to administer and enforce this chapter and the road standards.

(Ord. 293 (2003) § 3, 2003)

11.22.040 Definitions.

"Bond" means a financial guarantee, in the form of a surety bond or assignment of funds, that shall guarantee compliance with this chapter.

"County engineer" means the Kitsap County road engineer, having the authority specified in this chapter and under RCW 36.75.050 and Chapter 36.80 RCW, or his/her assigned designee.

"Department" means the Kitsap County department of public works.

"Improvements" include, but are not limited to, the design and construction of roads, storm water management facilities (i.e., storm drains, detention/retention ponds, bioswales, ditches, etc.), sidewalks, pedestrian trails, street lighting systems, signals and other traffic control devices, utilities and bridges.

"Reviewing agency" means the Kitsap county department of public works.

"Right-of-way" means all property in which the county has any form of ownership, interest or title, and which is held for the purpose of public roads and associated features such as, medians, sidewalks, bicycle facilities and public utilities. This definition applies regardless of whether or not any road exists thereon or whether or not it is used, improved, or maintained for public travel.

(Ord. 404 (2007) § 2, 2007: Ord. 293 (2003) § 4, 2003)

11.22.050 Application of standards.

The road standards shall apply to all designed and newly constructed or reconstructed public roads within a Kitsap County right-of-way or on private property to be dedicated to Kitsap County for right-of-way by any person, firm, corporation or other entity. Work performed in the construction or improvement of county roads, whether by or for a private developer, shall be done in accordance with the road standards and plans and specifications approved by the county. This chapter and the road standards are not intended to apply to general maintenance activities performed on roads in existence prior to January 13, 2003, the original date of adoption, as long as the maintenance activities do not significantly alter the dimensions or function of the road.

Land development activity that will impact the level of service, safety, or operational efficiency of existing roads, or that is required by other county code or ordinance to improve such roads, may be required to provide improvements in accordance with the road standards. The need for off-site improvements to existing county roads shall be based on an assessment of the potential impacts of the proposal.

Storm water management requirements associated with road improvements shall comply with the requirements of Kitsap County storm water management standards, codified under Title 12 of the Kitsap County Code, as they now exist or are hereafter amended.

Road improvements required under the road standards shall be designed by a professional engineer registered to practice in the state of Washington.

(Ord. 404 (2007) § 3, 2007: Ord. 293 (2003) § 5, 2003)

11.22.060 Public maintenance.

The board of county commissioners may, by resolution, accept a road for maintenance at the cost of and by Kitsap County if the road has been designed, constructed and the right-of-way conveyed in accordance with this chapter and the road standards.

(Ord. 293 (2003) § 6, 2003)

11.22.070 Permits.

(a) No person, firm, partnership, association, joint venture, corporation, or other public or private legal entity shall construct or alter a permanent or temporary vehicular access to a county road without first obtaining a road approach permit from Kitsap County. A copy of the permit shall be available for inspection at the site during construction. Any change in land use or any improvement to an existing site that increases traffic volumes using an existing approach will require a new road approach permit.

(b) No person, firm, partnership, association, joint venture, corporation, or other public or private legal entity shall conduct any construction activity within a county right-of-way unless the work is in accordance with a valid permit to perform work in county right-of-way issued by the Kitsap County department of public works. A permit is not required for routine maintenance activities or repairs to aboveground utilities. Utility relocation work completed in conjunction with a county road improvement project does not require a permit. The applicant is required to be a qualified licensed and insured contractor in the state of Washington. Plans, drawings or other details that will enable the county to determine the location, size, length, time period and purpose of the permit being sought shall be

furnished by the applicant. All permits that extend or alter existing and new waterline installations require review and approval by the fire marshal prior to application; provided, however,

(1) A permit need not be obtained before performing emergency repairs upon existing underground utilities where the public health, safety and welfare is threatened if immediate repairs are not made; provided further,

(2) That as soon as practicable after the need for the emergency work is discovered or after the emergency repairs have been made, the person, firm, partnership, association, joint venture, corporation, or other public or private legal entity intending to make or having made the emergency repairs shall notify the department of public works regarding the location, extent and nature of the repairs; and provided further,

(3) On the next working day immediately following the date of the emergency repair, the public or private entity having made such repairs shall submit an application for a permit to the department of public works and shall comply with the road standards insofar as possible as determined by the department of public works.

(Ord. 404 (2007) § 4, 2007: Ord. 293 (2003) § 7, 2003)

11.22.080 Technical deviation.

The county engineer may grant minor technical deviations from requirements contained in the road standards; provided, that all of the following criteria are met:

(1) The technical deviation will not otherwise result in noncompliance with the road standards or any other applicable code; and

(2) The granting of the technical deviation will not result in noncompliance with development conditions imposed upon a project by the department of community development, the hearing examiner and/or board of commissioners; and

(3) The granting of the technical deviation will produce a compensating or comparable result that is in the public interest; and

(4) The granting of the technical deviation will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

(Ord. 404 (2007) § 5, 2007: Ord. 293 (2003) § 8, 2003)

11.22.090 (Repealed)

* **Editor's Note:** Former Section 11.22.090, "Variance." was repealed by Ordinance 404 (2007). Section 9 of Ordinance 293 was formerly codified in this section.

11.22.100 Appeals.

An aggrieved party may appeal any administrative interpretation or departmental ruling related to this chapter and/or the County road standards by following the process set forth in Chapter 21.04 of the Kitsap County Code, Land Use and Development Procedures Ordinance, as it now exists or is hereafter amended.

(Ord. 293 (2003) § 10, 2003)

11.22.110 Penalties – Enforcement.

(a) General. In addition to all other enforcement actions authorized under the code, the county may withhold or withdraw plan or development permit approval, revoke approval, forfeit the submitted financial guarantee, and/or refuse to accept work performed, if a permittee fails to comply with any requirement set forth in this chapter or the road standards. Further, Kitsap County may bring civil suit to enforce any requirement, enjoin violation or seek any other remedy available at law or equity.

(b) Road Approaches – Failure to Construct Properly. In addition to all other enforcement actions authorized under the code, any person, firm, partnership, association, joint venture, corporation or other legal entity who fails to construct an approach properly will be required to compensate the county for the improvement or removal of the approach. Compensation shall include administration time as well as equipment and materials to remove or improve the approach. Reimbursement shall be made to the Kitsap County department of public works.

(c) Failure to Notify. In addition to all other enforcement actions authorized under the code, if a permittee fails to notify the county as required by the road standards then Kitsap County may require sampling and/or testing post-construction, either by the project engineer or Kitsap County. Costs for such testing and/or sampling shall be borne by the permittee. When such testing and/or sampling is

required, the county may prohibit or limit further work until all such tests and/or sampling have been completed and corrections made to the satisfaction of the county. In addition to this provision, the county reserves its right to bring any or all other enforcement action for the failure to notify.
(Ord. 404 (2007) § 7, 2007; Ord. 293 (2003) § 11, 2003)

11.22.120 Bonding – Insurance – Indemnification.

(a) A permittee shall post a financial guarantee in the form of a surety bond or assignment of funds from a corporation authorized to do the business of surety in the state of Washington. The bond is required to ensure compliance with all permit conditions and shall be kept in full force and effect for a minimum of two years following acceptance of the work as complete by the county. The bond shall be in favor of the department of public works and is required prior to permit approval. The amount of the bond shall be as determined by the county.

(b) If a person, firm, partnership, association, joint venture, corporation, or other public or private entity locates, installs, adjusts, repairs or relocates underground utility lines on a regular basis, the county may allow such entity to post a blanket bond in an amount no less than \$5,000.00. If an entity that has posted a blanket bond thereafter makes application for a permit, on a project of such magnitude that the county determines that the amount of the blanket bond is inadequate, the county may require a separate, additional bond.

(c) **Commercial Liability Insurance.** Prior to beginning any work, and through the term of the maintenance bond, the permittee shall maintain commercial general liability insurance in the amount of not less than \$1,000,000.00 combined single limit bodily injury and property damage, with a \$2,000,000.00 aggregate. Prior to issuing a permit to work in the right-of-way, a permit applicant must provide the county with a certificate of insurance, signed by the insurance agent and the permit applicant. The policy shall be endorsed and the certificate shall name Kitsap County as an additional insured on the policy with respect to activities performed under this permit and through the term covered by the maintenance bond. The policy shall be endorsed and the certificate shall reflect that the insurance provided shall be primary insurance and any insurance or self-insurance carried by the county shall be excess and not contributory to that provided by the permittee. If, for any reason, a material change occurs in the insurance coverage during the period of time required by this provision, such changes shall not become effective until forty-five days after Kitsap County has received written notice of such changes.

(d) **Waiver of Requirements.** The bonding and insurance requirements described in subsections (a) through (c) of this section may be waived at the discretion of the county engineer.

(e) **Indemnification.** The holder of any right-of-way permit shall have no recourse whatsoever against Kitsap County or its officials, boards, commissions, agents, or employees for any loss, costs, expenses, or damages arising out of any provision or requirement of the permit or road standards, or because of Kitsap County enforcement activities. Granting of a franchise or permit shall not imply or be construed to mean the county shall be responsible for the design, construction, or operation of the facility or for public safety during the facility's installation, operation, or maintenance.
(Ord. 404 (2007) § 8, 2007; Ord. 293 (2003) § 12, 2003)

11.22.130 Fees.

Fees required under this chapter and/or the road standards are as specified in the Kitsap County Development Permit Fee Schedule, Kitsap County Code Section 21.06.100, as it now exists or is hereafter amended.
(Ord. 293 (2003) § 13, 2003)

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Chapter 20.04
TRANSPORTATION FACILITIES CONCURRENCY ORDINANCE

Sections:

<u>20.04.010</u>	Authority and purpose.
<u>20.04.020</u>	Definitions.
<u>20.04.030</u>	Concurrency application.
<u>20.04.040</u>	Concurrency test.
<u>20.04.050</u>	Granting concurrency.
<u>20.04.060</u>	Capacity reservation certificate.
<u>20.04.070</u>	Certificate of concurrency.
<u>20.04.080</u>	Denial of concurrency.
<u>20.04.090</u>	Exemptions from concurrency.
<u>20.04.100</u>	Annual update.
<u>20.04.110</u>	LOS standards.
<u>20.04.120</u>	Intergovernmental coordination.
<u>20.04.130</u>	Relationship to SEPA.
<u>20.04.140</u>	Administrative appeals.
<u>20.04.150</u>	Fees.

20.04.010 Authority and purpose.

1. The ordinance codified in this chapter adopts a concurrency management system for transportation facilities as required by RCW 36.70A.070(6)(e).
2. It is the purpose of this ordinance to:
 - a. Provide adequate levels of service on transportation facilities for existing use as well as new development in unincorporated Kitsap County;
 - b. Provide adequate transportation facilities that achieve and maintain county standards for levels of service as provided in the Comprehensive Plan, as amended; and
 - c. Ensure that county level of service standards are achieved concurrently with development as required by the Growth Management Act.
(Ord. 218 (1998) § 2 (Exh. A (§1.0)), 1998)

20.04.020 Definitions.

1. "Adequate transportation facilities" means transportation facilities which have the capacity to serve development without decreasing the county's established level of service standards.
2. "Average daily traffic" means the amount, in vehicles per day, of traffic accommodated on a roadway averaged over a full year to the twenty-four-hour day period.
3. "Calculated level of service" (or "LOS"), as referred to in the Kitsap County Comprehensive Plan, means a forecast level of service that includes existing traffic, ambient traffic growth, traffic that is expected to be generated by previously approved developments based on department of community development records, and the traffic anticipated from the subject development and other proposed developments.
4. "Capacity" means the maximum rate of flow that can be accommodated by a given traffic facility under prevailing conditions, and is expressed in average daily traffic terms. The calculation of capacity will be done according to the most recent edition of the Highway Capacity Manual (HCM), or by alternative methods approved by the director of public works.
5. "Concurrency inquiry certificate" (or "CIC") is the document issued by the department of public works, describing availability of capacity on the county transportation facilities specific to the proposed development or permit. Any available capacity is not reserved by such CIC.
6. "Capacity reservation certificate" (or "CRC") is the document issued by the department of public works, confirming availability and reserving development capacity on the county transportation facilities specific to the proposed development or permit.
7. "Certificate of concurrency" (or "CC") is the final document issued by the department of public works, confirming availability and reserving development capacity on the county's transportation facilities specific to the proposed development or permit.

8. "Committed road network" (or "CRN") means the system of transportation facilities used to calculate the level of service relative to a development proposal. It includes existing transportation facilities and proposed facilities which are fully funded for construction in the most currently adopted six-year TIP or for which voluntary financial commitments have been secured.

The CRN includes:

- a. County roads;
- b. State highways and freeways;
- c. Ferry routes and terminals;
- d. Bus routes;
- e. Park and ride lot locations;
- f. High occupancy vehicle exclusive lanes.

Projects to be provided by the state, cities or other jurisdictions may become part of the committed road network upon decision of the director of public works.

The director of public works may make adjustments to the committed road network for corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications which are consistent with the adopted Comprehensive Plan; or the date of construction (scheduled for completion within the six-year period) of any facility enumerated in the transportation improvement program (TIP).

9. "Concurrency" means that adequate transportation improvements or strategies needed to maintain the county level of service standards are in place at the time of development or that a financial commitment is in place to provide the improvements or strategies within six years, according to RCW 36.70A.070(6).

10. "Concurrency test" means the determination of a proposed development's impact on transportation facilities by a comparison of the level of service (LOS) of the affected roadways after testing for the impact of the proposed development, to the level of service standard which is set for those affected roadways. For purposes of concurrency determination, the analysis of LOS adequacy will only be applied to the committed road network in rural areas and urban areas under the county's jurisdiction, and to all other transportation facilities with which the county has interest according to an executed interlocal agreement with the controlling jurisdiction or agency.

11. "Concurrency management system zone" (or "CMSZ") means the geographic area the extent of which is defined by, and proportional to, the effect of the proposed development. The CMSZ will be an aggregate of the Kitsap traffic analysis zones (KTAZ) within which the maximum impact of the proposed development is expressed.

12. "Development" means specified improvements or changes in use of land, designed or intended to permit a use of land which will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land or buildings/improvements on the land in a manner that will increase the amount of vehicle traffic generated by the existing use of the land, and that requires a development permit from Kitsap County.

13. "Development approval" means any order, permit or other official action of the county granting, or granting with conditions, an application for development which authorizes the commencement of development activity.

14. "Development units" means the proposed quantity of development measured by dwelling units for residential development and square feet for specific nonresidential use categories, upon which are based the calculations of level of service for the determination of concurrency.

15. "DCD" means the Kitsap County department of community development or its successor agency.

16. "DPW" means the Kitsap County department of public works or its successor agency.

17. "Financial commitment" consists of the following:

1. Revenue designated in the most currently adopted TIP for transportation facilities or strategies comprising the committed road network. Projects to be used in defining the committed road network shall represent those projects that are identified as funded for construction in the six years of the transportation improvement program (TIP);

2. Revenue from federal or state grants for which the county has received notice of approval; and

3. Revenue that is assured by an applicant in a form approved by the county in a voluntary agreement, such as a road improvement district (RID).

18. "Interlocal agreement" means an executed legal instrument structuring binding relationships between political entities as defined by Chapter 39.34 RCW.

19. "Kitsap traffic analysis zone" (or "KTAZ") means geographic areas defined according to census tract boundaries that contain approximately equivalent population which is the basis for the operation of the geographic information system based traffic impact analysis computer program.

20. "Level of service" (or "LOS") means a measure of adequacy as defined by WAC 365-195-210.

21. "Reservation" or "reserve" means development units that are set aside in the county's concurrency records in a manner that assigns the units to the applicant and prevents the same units being assigned to any other applicant.

The units will be recorded on the capacity reservation certificate and/or the certificate of concurrency provided to the applicant, and also in the records maintained by public works. No units are reserved under the concurrency inquiry application.

22. "SEPA" means the State Environmental Policy Act (Chapter 43.21 RCW) as implemented by Kitsap County.*

* **Editor's Note:** See Ch. 18.04 of this code.

23. "Transportation facilities" means all principal arterials, minor arterials, major collectors, and collectors (functional class numbers 06, 07, 14, 16, 17) in unincorporated Kitsap County as defined by the county's functional classification map, incorporated herein by this reference. Transportation facilities include any such facility owned, operated or administered by the State of Washington and its political subdivisions related to air, water, or land transportation.

24. "Transportation improvement program" (or "TIP") means the expenditures programmed by Kitsap County for capital purposes over the next six-year period in the TIP pursuant to RCW 36.81.121. The financial plan underlying the adopted TIP identifies all applicable and available revenue sources, and the plan forecasts these revenues through the six-year period with reasonable assurance that such funds will be timely put to such ends. The county commissioners should seek public input into the project prioritization process as it relates to concurrency of transportation facilities to the TIP.

25. "Transportation strategies" means transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel and that are approved by the DPW. Strategies may include but are not limited to vanpooling, carpooling, and public transit, signalization, and channelization.

(Ord. 218 (1998) § 2 (Exh. A (§ 2.0)), 1998)

20.04.030 Concurrency application.

1. A completed capacity reservation certificate must be submitted with the first development permit application.

2. Applications for concurrency inquiry certificates, capacity reservation certificates, and certificates of concurrency shall be submitted to the department of public works on forms provided by that department, along with the application fee.

3. Concurrency Inquiry Certificate. An applicant may inquire whether or not concurrent facilities exist without an accompanying request for a development permit. A fee will be charged for such concurrency test and any available capacity cannot be reserved and will not be guaranteed.

4. Building permit applications shall require a certificate of concurrency unless a certificate of concurrency already exists with the subject parcel of land.

(Ord. 218 (1998) § 2 (Exh. A (§ 3.0)), 1998)

20.04.040 Concurrency test.

1. The concurrency test shall be performed only for the specific property, uses, densities and intensities based on information provided by the applicant. Changes to the uses, densities, and intensities that create additional impacts on transportation facilities shall be subject to an additional concurrency test. For commercial and non-residential development, the county's records will indicate the land use types and square footage reserved for each land use tested for concurrency. If development units are temporarily reserved until a development is issued a certificate of concurrency, then those units will not be allocated to any subsequent request until that time.

2. The county shall perform a concurrency test for each application for a concurrency inquiry certificate, capacity reservation certificate, or certificate of concurrency.

3. Concurrency tests will be conducted on a first-come, first-served basis. The county shall conduct the concurrency test first for the earliest completed application received by the DPW. Subsequent applications will be tested in the order that the DPW receives completed applications.

4. In conducting the concurrency test, the county shall use standard trip generation rates, such as those reported by the Institute of Transportation Engineers (ITE) Trip Generation Manual, 5th Edition. (Ord. 218 (1998) § 2 (Exh. A (§ 4.0)), 1998)

20.04.050 Granting concurrency.

The county shall not issue a certificate of concurrency unless there are adequate transportation facilities to meet the level of service standards set forth in the Comprehensive Plan for existing and approved uses, taking into account the cumulative effects of prior concurrency certificates, and the impacts of the proposed development.

The county shall use a two-step process in granting concurrency for a proposed development:

1. Step One. If the level of service is equal to or better than the adopted LOS standard in the CMSZ, the concurrency test is passed, and the applicant shall be issued a capacity reservation certificate. Step one is required unless the application is for a single residential building permit, for which only step two is required.

2. Step Two. Upon the development permit approval, a certificate of concurrency shall be issued. (Ord. 218 (1998) § 2 (Exh. A (§ 5.0)), 1998)

20.04.060 Capacity reservation certificate.

1. The capacity reservation certificate (CRC) shall be prepared and issued by the department of public works. The concurrency inquiry certificate (CIC) will use the same form as the CRC.

Upon passing the concurrency test, a capacity reservation certificate is issued.

The capacity reservation certificate must include at least the following information:

- a. The location or other description of the property on which the development is proposed;
- b. The number of development units and specific uses, densities, and intensities that were tested for concurrency and approved;
- c. The type of development approval for which the certificate of concurrency is issued;
- d. An effective date.

2. Upon issuance of a capacity reservation certificate, the county shall reserve development units and transportation facility capacity on behalf of the applicant and indicate the reservation on the certificate. The concurrency inquiry certificate cannot reserve development units or transportation facility capacity.

3. The capacity reservation certificate expires upon the issuance of a certificate of concurrency; or, if the development application is withdrawn; or, within ninety days of the effective date of the capacity reservation certificate unless the development application has been certified complete.

4. An extension of a capacity reservation certificate shall be granted by the director of public works for an appropriate time period only upon a showing of extraordinary circumstances and that substantial hardship would occur to the applicant without the extension. (Ord. 218 (1998) § 2 (Exh. A (§ 6.0)), 1998)

20.04.070 Certificate of concurrency.

The certificate of concurrency (CC) is issued to supplant the capacity reservation certificate at the time of development approval. The certificate of concurrency is issued upon approval of the development proposal.

1. The information contained on the certificate of concurrency shall include the following:
 - a. The location or other description of the property on which the development is proposed;
 - b. The number of development units and specific uses, densities, and intensities that were tested for concurrency and approved;
 - c. The type of development approval for which the certificate of concurrency is issued;
 - d. An effective date; and
 - e. An expiration date.

2. A certificate of concurrency can be extended to remain in effect for the life of each subsequent development approval for the same parcel, as long as the applicant obtains the subsequent development approval prior to the expiration of the earlier development approval. The CC is extended by requesting a new issuance from DPW with an updated expiration date, for which there shall be an administrative fee charged. If the development approval does not have an expiration date, the certificate of concurrency shall be valid for five years from the date of issuance.

3. No development shall be required to hold more than one valid certificate of concurrency, unless the applicant or subsequent owner proposes changes or modifications to the property location, density, intensity, or land use that creates additional impacts on transportation facilities.

4. A certificate of concurrency runs with the land and is valid only for subsequent development approvals for the same parcel, and to new owners of the original parcel for which it was issued.

5. A certificate of concurrency cannot be transferred to a different parcel and shall be limited to uses and intensities for which it was originally issued.

6. Upon annexation of any development, the provisions for the capacity reservation certificate and the certificate of concurrency shall be enforced by any interlocal agreement the county may have with the annexing jurisdiction.

7. A certificate of concurrency may be voluntarily surrendered by the holder of the certificate.

8. Upon issuance of a certificate of concurrency, the county generally will be bound by its terms for the life of the certificate, but only after the applicant provides assurances, in a form acceptable to the county, that guarantee the applicant's proportionate share in the capital improvements required to maintain concurrency. The county is not bound, however, when special conditions occur, such as a change in the law or a change in the calculated LOS due to a change in circumstances or a change in information forming the basis for the calculated LOS.

9. The determination of concurrency shall be final at the time of development approval. The issue of concurrency may be raised as part of the review process for the development application for which the certificate of concurrency was issued.

(Ord. 218 (1998) § 2 (Exh. A (§ 7.0)), 1998)

20.04.080 Denial of concurrency.

If the level of service falls below the adopted standards, the concurrency test is not passed, and the applicant shall select one of the following options:

1. Accept the denial of an application for a certificate of concurrency in which case the application will be determined to be technically incomplete; or

2. Accept a ninety-day reservation of transportation facilities that are available, and within the same ninety-day period amend the application to reduce the need for transportation facilities to the capacity that is available, or voluntarily arrange, by a financial commitment or instrument approved by the director of DPW, to implement the transportation facilities or strategies needed to achieve concurrency.

a. The ninety-day period shall begin no later than fourteen days after issuance of the notification of denial of the certificate of concurrency as required under this chapter.

b. Reduction of the need for transportation facilities may be achieved through one or a combination of the following:

i. Reducing the size of the development;

ii. Reducing trip generation by decreasing the original proposed development;

iii. Phasing of the development to match future transportation facility construction; or

iv. Providing transportation strategies, when the department determines that such strategies will be reasonably sufficient as to reduce traffic to a level which meets the concurrency standard or threshold.

3. Appeal the denial of the application for a certificate of concurrency, pursuant to the provisions of Section 20.04.140. The county shall reserve any available development units during the appeal.

Acceptance of the ninety-day period shall not impair the applicant's future right to a formal appeal at a later time.

4. If a development that is consistent with the zoning provided in the Comprehensive Plan fails the concurrency test, there should be a feedback loop from concurrency testing to zoning. DPW will notify DCD, and a determination may be made as to whether the underlying zoning appears appropriate in the given area, and will consider the feasibility of providing increased area capacity, consistent with the projected six-year transportation funding.

(Ord. 218 (1998) § 2 (Exh. A (§ 8.0)), 1998)

20.04.090 Exemptions from concurrency.

The following shall be exempt from the provisions of this chapter:

1. Development for which impact fees were collected under the 1992 Impact Fee Ordinance (Ordinance 143 (1992), codified as Chapter 4.108 of this code) prior to the effective date of this chapter so long as the original proposal has not been modified.

2. Renewals of previously issued, unexpired permits.

3. Phases of projects that were disclosed by the applicant and subject to a concurrency test as part of the original application (i.e., phased development), provided that a certificate of concurrency was issued for the expansion or subsequent phase.

4. Development applications for development which creates no additional impact on any transportation facility; such development includes but is not limited to:

- a. Any addition or accessory structure to a residence with no change in use or increase in the number of dwelling units;
- b. Interior renovations with no change in use or increase in the number of dwelling units;
- c. Interior completion of a structure for uses(s) with the same or less intensity as the existing use or a previously approved use;
- d. Replacement structure with no change in use or increase in the number of dwelling units;
- e. Temporary construction trailers;
- f. Driveway resurfacing, or parking lot paving;
- g. Reroofing structures;
- h. Demolitions.

(Ord. 218 (1998) § 2 (Exh. A (§ 9.0)), 1998)

20.04.100 Annual update.

1. Levels of service shall be monitored and the traffic model for the county shall be updated at least once per year throughout the comprehensive plan process. The monitoring and update process shall include determination of traffic volumes, approval of additional development, completion of previously approved development, improvements to transportation facilities, and the effect of transportation strategies.

2. In order to monitor the cumulative effect of exempt development approvals on the level of service of transportation facilities, the county shall include the impacts of exempt development approvals in all relevant concurrency monitoring records.

(Ord. 218 (1998) § 2 (Exh. A (§ 10.0)), 1998)

20.04.110 LOS Standards.

The level of service standards are described and contained in the Kitsap County Comprehensive Plan Parts I & II, namely the Land Use Plan Transportation Appendix and the Capital Facilities Plan, wherein LOS is thoroughly described.

(Ord. 218 (1998) § 2 (Exh. A (§ 11.0)), 1998)

20.04.120 Intergovernmental coordination.

The county shall pursue establishing agreements, or continue existing agreements with other local governments, agencies, jurisdictions, and the State of Washington to coordinate the imposition of LOS standards, impact fees and other mitigation requirements for transportation concurrency. Existing agreements shall continue in force until modified or terminated.

1. The county shall apply transportation standards, fees and mitigation requirements to development in its jurisdiction that impacts other local governments, agencies, jurisdictions, and the State of Washington if interlocal agreements are in place at the time of the concurrency test. Development approvals by the county may include conditions and mitigations that may be imposed on behalf of, and implemented by other local governments, agencies, jurisdictions, and the State of Washington.

2. The county may receive impact fees or other mitigations based on or as a result of development proposed in other jurisdictions that impact the county. The county may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in their jurisdiction pursuant to interlocal agreements, urban growth management agreements, or other agreements in place.

3. No fees or mitigations for transportation facilities of other agencies will be required by the county unless an agreement has been executed between the county and the affected agency. The agreement shall specify the fee schedule and level of service standards to be used by the county and the affected agency, which standards shall be consistent with the county's comprehensive plan and, if different than the standards adopted pursuant to this chapter, shall be adopted by subsequent ordinance.

(Ord. 218 (1998) § 2 (Exh. A (§ 12.0)), 1998)

20.04.130 Relationship to SEPA.

A determination of concurrency shall be an administrative action of Kitsap County that is categorically exempt from the State Environmental Policy Act. However, this does not mean or imply

that the development proposal itself is exempt from SEPA review, regardless of its exempt status under this chapter.

(Ord. 218 (1998) § 2 (Exh. A (§ 13.0)), 1998)

20.04.140 Administrative appeals.

1. The applicant may appeal the results of the concurrency test on any of the following grounds:

a. A technical error;

b. The applicant provided alternative data or a traffic mitigation plan that was rejected by the county.

2. Procedures. Appeals of a concurrency test shall be made according to the process set forth in the Kitsap County Land Use and Development Procedures Ordinance (Title 21 of this code), as now or hereafter amended, for the appeal of administrative decisions.

(Ord. 218 (1998) § 2 (Exh. A (§ 14.0)), 1998)

20.04.150 Fees.

1. The fees charged for conducting the concurrency test requirements of the concurrency inquiry certificate, capacity reservation certificate, or certificate of concurrency shall be as specified in the Kitsap County Development Permit Fee Schedule (Section 21.06.100).

2. Development by municipal, county, state, and federal governments, and special districts (as that term is defined in state law) are exempt from the certificate of concurrency application fee.

(Ord. 291 (2002) § 16, 2002; Ord. 218 (1998) § 2 (Exh. A (§ 15.0)), 1998)

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**Title 12
STORM WATER DRAINAGE**

Chapters:

- 12.04 General Provisions**
- 12.08 Definitions**
- 12.10 Permits**
- 12.12 Covenants, Sureties and Liability Insurance**
- 12.14 Erosion and Sediment Control**
- 12.16 Grading**
- 12.20 Storm Water Management**
- 12.24 Operation and Maintenance**
- 12.28 Critical Drainage Areas**
- 12.30 Water Quality**
- 12.32 Enforcement**
- 12.36 Surface and Storm Water Management Program**
- 12.40 Surface and Storm Water Management Program Rate Structure**

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**Chapter 12.04
GENERAL PROVISIONS**

Sections:

- 12.04.010 Declaration of title.
- 12.04.020 Storm water management standards and specifications.
- 12.04.030 Applicability.
- 12.04.040 Applicability of other ordinances and permits.
- 12.04.050 Administration.
- 12.04.060 Appeals.

12.04.010 Declaration of title.

This title shall be known as the "Storm Water Management Ordinance."*
(Ord. 199 (1996) § 1.10, 1996)

* **Editor's Note:** Chapters 12.04 – 12.32, as adopted by Ordinance 199 (1996), comprise the "Storm Water Management Ordinance."

12.04.020 Storm water management standards and specifications.

The Kitsap County board of commissioners recognizes that storm water control technology is a developing and evolving science. In order to ensure that the latest and best technology is utilized in Kitsap County, Exhibit A attached to the ordinance codified in this title and incorporated herein by this reference is adopted as the *Kitsap County Stormwater Design Manual*. All references to this title shall include the *Kitsap County Stormwater Design Manual*. The director may amend the *Kitsap County Stormwater Design Manual*, with the approval of the Kitsap County board of commissioners, as necessary to reflect changing conditions and technology. All requirements contained in the *Kitsap County Stormwater Design Manual*, together with any amendments thereto, must be complied with as provided in Section 12.04.030.

(1) **Technical Deviations.** The director may grant minor technical deviations from requirements contained in the *Kitsap County Stormwater Design Manual*, provided that all of the following criteria are met:

- (A) The technical deviation will not otherwise result in noncompliance with this title;
- (B) The granting of the technical deviation will not result in noncompliance with the development conditions imposed upon the project by the board of commissioners;
- (C) The granting of the technical deviation will produce a compensating or comparable result which is in the public interest;
- (D) The granting of the technical deviation will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

(2) **Variations.** The Kitsap County board of commissioners may, following a public hearing, grant a variance from the provisions of this title, provided that all of the following criteria are met:

- (A) The granting of the variance will produce a compensating or comparable result which is in the public interest;
- (B) The granting of the variance will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

(3) **Water Quality.** For circumstances or conditions related to water quality which are not specifically addressed within the scope of this title, the preferred method for selection, design and implementation of storm water management practices shall be the most current edition of the Washington State Department of Ecology publication, *Stormwater Management Manual for the Puget Sound Basin*, or a subsequent manual adopted by WSDOE.

(Ord. 199 (1996) § 1.20, 1996)

12.04.030 Applicability.

The provisions of this title shall apply to all site development activities requiring land use permits and approvals as defined in Chapter 12.08, both public and private, within the bounds of unincorporated Kitsap County. The provisions of Chapter 12.24 (Operation and Maintenance) shall also apply to

existing storm water facilities in unincorporated Kitsap County. The provisions of Chapter 12.30 (Water Quality) shall apply to all situations and circumstances throughout unincorporated Kitsap County. No site development activities requiring land use permits and approvals shall be initiated prior to issuance of a site development activity permit.

(Ord. 199 (1996) § 1.40, 1996)

12.04.040 Applicability of other ordinances and permits.

Any land development which is required by operation of any Kitsap County ordinance, state law or federal law to construct, install or modify any natural or manmade drainage features within, abutting or serving the development shall do so in accordance with this title. However, where the provisions of this title directly conflict with any other Kitsap County ordinance, state law or federal law, or comprehensive drainage plan, the more stringent provisions shall apply to the extent permissible by law.

Approval of any land development activity by Kitsap County does not constitute approval of other applicable permits that may be required by other agencies. Examples of additional permits that may be required include construction and industrial discharge permits administered by the State Department of Ecology under the National Pollutant Discharge Elimination System (NPDES) program, and Hydraulic Project Approval (HPA) by the Department of Fish and Wildlife.

(Ord. 199 (1996) § 1.45, 1996)

12.04.050 Administration.

The director, or an assignee, shall administer this title. The director shall have the authority to develop and implement procedures to administer and enforce this title.

(Ord. 199 (1996) § 1.46, 1996)

12.04.060 Appeals.

An aggrieved party may appeal any administrative interpretation or departmental ruling related to this title to the Kitsap County board of commissioners.

(Ord. 199 (1996) § 1.60, 1996)

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Chapter 12.08 DEFINITIONS

Sections:

12.08.010 Definitions.

12.08.010 Definitions.

The following definitions of terms shall apply to this title:

1. "Accepted performance of construction" means the written acknowledgment from the director of the satisfactory completion of all work accepted by Kitsap County, including all work shown on the accepted plans, accepted revisions to the plans, and accepted field changes.
2. "Applicant" means the person, party, firm, corporation or other legal entity that proposes to engage in site development activities in unincorporated Kitsap County by submitting an application for any of the activities covered by this ordinance on a form furnished by the county and paying the required application fees.
3. "Basin plan" means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and storm water quality and quantity management facilities and drainage features within individual sub-basins.
4. "Beneficial use" means any activity that allows the owner to gain the use intended by the development activity, as so stated by the applicant at the time of application for a Kitsap County site development activity permit.
5. "Best management practices" ("BMP") means physical, structural and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by Kitsap County as accepted BMP's.
6. "Biofiltration/biofilter facilities" means vegetative BMP's which treat storm water by filtration through vegetation. Biofiltration facilities include, but are not limited to, grassed or vegetated swales and filter strips.
7. "Bioretention facilities" means shallow landscaped depressions with an engineered soil mix designed to filter runoff from a small contributing area. Bioretention facilities may be in the form of swales or cells. Bioretention facilities are commonly referred to as rain gardens.
8. "Board" means the Kitsap County board of commissioners or their assigns.
9. "Bond" means a financial guarantee, in the form of a surety bond, assignment of funds, or irrevocable bank letter of credit, that shall guarantee compliance with applicable provisions of this title.
10. "Clearing" or "land clearing" means the surface removal of vegetation.
11. "Closed depressions" means low-lying areas which have no surface outlet, or such a limited surface outlet that in most storm events the area acts as a retention basin, holding water for infiltration, evaporation or transpiration.
12. "Comprehensive drainage plan" means a detailed analysis, adopted by the board, for a drainage basin which assesses the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The plan recommends the form, location and extent of storm water quantity and quality control measures, which would satisfy legal constraints, water quality standards, and community standards, and identifies the institutional and funding requirements for plan implementation.
13. "Contiguous land" means land adjoining and touching other land regardless of whether or not portions of the parcels have separate assessor's tax numbers or were purchased at different times, lie in different sections, are in different government lots, or are separated from each other by private road or private rights-of-way.
14. "County" means Kitsap County.
15. "Critical drainage area" refers to those areas designated in Chapter 12.28 (Critical Drainage Areas), which have a high potential for storm water quantity or quality problems.
16. "Design storm event" means a theoretical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.

17. "Detention facilities" means storm water facilities designed to store runoff while gradually releasing it at a predetermined controlled rate. "Detention facilities" shall include all appurtenances associated with their designed function, maintenance and security.

18. "Developed site" means the condition of the development site following completion of construction of the development including all approved phases of construction.

19. "Director" means:

A. The director of the Kitsap County department of public works or his designee for the administration of the storm water maintenance program; or

B. The director of the Kitsap County department of community development or his designee for all permit related activities.

20. "Dispersion" means the release of surface or storm water runoff such that the flow spreads over a wide area and is located so as not to allow flow to concentrate anywhere upstream of a drainage channel with erodible underlying soils.

21. "Diversion" means the routing of storm water to other than its natural discharge location.

22. "Drainage feature" means any natural or manmade structure, facility, conveyance or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate or affect the flow rate of storm water runoff.

23. "Drainage plan" means a plan for the collection, transport, treatment and discharge of runoff, and may include both the plan and profile views of the site as well as construction details and notes.

24. "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

25. "Erosion control design storm" means the two-year frequency, twenty-four-hour duration storm event used for analysis and design of sedimentation and erosion control facilities.

26. "Existing storm water facilities" means those facilities constructed or under permitted construction prior to the effective date of the ordinance codified in this chapter.

27. "Forested land" means "forested land" as defined in RCW 76.09.020, and shall include all land which is capable of supporting a merchantable stand of timber and that is being actively used in a manner compatible with timber growing.

28. "Geologist" means a person who is licensed in the state of Washington and meets all experience and training requirements in accordance with Chapter WAC 308-15, as now or hereafter amended.

29. "Geotechnical engineer" means a practicing geotechnical/civil engineer licensed as a professional civil engineer with the state of Washington, with professional training and experience in geotechnical engineering, including at least four years' professional experience in evaluating geologically hazardous areas.

30. "Geotechnical report" means a study of the effects of drainage and drainage facilities on soil characteristics, geology and ground water. A geotechnical engineer or geologist shall prepare the geotechnical report.

31. "Grading" means any excavating, filling or embanking of earth materials.

32. "Grubbing" means the removal of vegetative matter from underground, such as sod, stumps, roots, buried logs or other debris, and shall include the incidental removal of topsoil to a depth not exceeding twelve inches.

33. "Hydrograph" means a graph of runoff rate, inflow rate or discharge rate, past a specific point over time.

34. "Hydrograph method" means a method of estimating a hydrograph using a mathematical simulation. Commonly accepted hydrograph methods include the Soil Conservation Service TR-55 Method and the Santa Barbara Urban Hydrograph Method.

35. "Illicit discharge" means all non-storm water discharges to storm water drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, and gray water systems. The following shall not be considered illicit discharges unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or ground water:

- (a) Diverted stream flows.
- (b) Rising ground waters.
- (c) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)).
- (d) Uncontaminated pumped ground water.
- (e) Foundation drains.

- (f) Air conditioning condensation.
- (g) Irrigation water from agricultural sources that is commingled with urban storm water.
- (h) Springs.
- (i) Water from crawl space pumps.
- (j) Footing drains.
- (k) Flows from riparian habitats and wetlands.
- (l) Non-storm water discharges covered by and compliant with another NPDES permit.
- (m) Discharges from emergency fire-fighting activities.
- (n) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water so long as the discharges are dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in storm water drainage systems.
- (o) Discharges from lawn watering and other irrigation runoff.
- (p) Dechlorinated swimming pool discharges so long as the discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4. Swimming pool cleaning wastewater and filter backwash shall not be discharged to storm water drainage systems.
- (q) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. At active construction sites, street sweeping must be performed prior to washing the street.

36. "Impervious surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces. The initial 5,000 square feet of permeable pavement systems meeting the

criteria set forth in Exhibit A (*Kitsap County Stormwater Design Manual*) shall not be considered impervious surfaces.

37. "Land disturbing activity" means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, demolition, construction, paving, clearing, grading and grubbing.

38. "Land use permits and approvals" means any use or development of land that requires Kitsap County action in legislation, administration or approval, including but not limited to, the following:

- (a) Preliminary plat subdivision;
- (b) Final plat subdivision;
- (c) Performance based development (PBD) including residential and commercial;
- (d) Site plan review;
- (e) Conditional use permit (CUP);
- (f) Zoning variance;
- (g) Short plat subdivision;
- (h) Large lot subdivision;
- (i) Grading permit;
- (j) Shoreline substantial development permit;
- (k) Shoreline conditional use permit;
- (l) SEPA and EIS reviews;
- (m) Binding site plan;
- (n) Building permit.

39. "Maintenance" means any activity which is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to return the facility to good working order. Maintenance shall also include the correction of any problem on the site property which may directly impair the functions of the storm water facilities.

40. "Maintenance covenant" means a binding agreement between Kitsap County and the person or persons holding title to a property served by a storm water facility whereby the property owner promises

to maintain certain storm water facilities; grants Kitsap County the right to enter the subject property to inspect and to make certain repairs or perform certain maintenance procedures on the storm water control facilities when such repairs or maintenance have not been performed by the property owner; and promises to reimburse Kitsap County for the cost should the county perform such repairs or maintenance.

41. "Maintenance schedule" means a document detailing required storm water facility maintenance activities to be performed at specified intervals.

42. "Major development" means any new development or any redevelopment activity that:

(a) For sites within a census defined urban area or an urban growth area includes the creation or cumulative addition of five thousand square feet or greater of impervious surface area from the pre-development conditions; or

(b) For sites outside census defined urban areas or urban growth areas includes the creation or cumulative addition of impervious surface that results in 5.0% or greater of the development site being covered in impervious surface or the creation or cumulative addition of ten thousand square feet of impervious surface from the pre-development conditions, whichever is greater; or

(c) includes land disturbing activity of one acre or greater; or

(d) includes grading involving the movement of five thousand cubic yards or more of material.

43. "Manual" means Exhibit A of the ordinance codified in this chapter entitled the *Kitsap County Stormwater Design Manual*.

44. "Minor development" means any new development or redevelopment activity that does not meet the thresholds of a major development.

45. "Non-forestry use" means an active use of land which is incompatible with timber growing.

46. "Off-site drainage analysis" means a study of those land areas contributing surface runoff to a development site as well as a study of the existing and predicted impacts of surface runoff from the development site on properties and drainage features that have the potential to receive storm water from the development site.

47. "Oil/water separator" means a structure or device used to remove suspended, floating or dispersed oil and greasy solids from water.

48. "Operation and maintenance manual" means a written manual, prepared by a qualified civil engineer, that provides a description of operation and maintenance procedures for specific storm water control facilities, for use by operation and maintenance personnel.

49. "Owner" means any person or persons having a legal or equitable property right or interest, whether or not said right is legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, optionor or optionee, and beneficiary or grantor of a trust or deed of trust.

50. "Pollution" means contamination or other alteration of the physical, chemical or biological properties of the waters of the state, including change in temperature, taste, color, turbidity or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful.

51. "Pre-development conditions" means site conditions as they existed prior to manmade alterations other than those alterations that have been made with a prior Kitsap County approved storm drainage plan, or alterations that existed prior to September 21, 1987.*

52. "Professional engineer" means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as attested by his or her legal registration as a professional engineer in the state of Washington.

53. "Project engineer" means the professional engineer responsible for the design of the project, who will affix his/her seal on the project drainage plans and drainage analysis. The project engineer shall be licensed in the state of Washington and qualified by experience or examination.

54. "Redevelopment" means any land-disturbing activity occurring on existing developed property.

55. "Retention facilities" means drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none of the runoff entering the facility will be discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance and security.

56. "SEPA" means the Washington State Environmental Policy Act.

57. "Shorelines of the state" means the total of all "shorelines" and "shorelines of state-wide significance" within the state, as defined in RCW 90.58.030, also known as the Shoreline Management Act.

58. "Site development activity" means the alteration of topography, clearing, paving, grading, construction, alteration of storm water systems, site preparation, or other activity commonly associated with site development. Site development includes those activities listed in the definition of "land use permits and approvals."

59. "Site development activity permit plan" means all documents submitted as part of a site development activity permit application, including but not limited to, drainage plans, grading plans, erosion and sedimentation control plans, hydrological analyses, geotechnical reports, soils investigation reports and design analyses related to a land development project.

60. "Soils investigation report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils investigation report shall be prepared by a qualified soils engineer or geologist, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

61. "Soils engineer" means a practicing engineer licensed as a professional engineer in the state of Washington who has at least four years of professional employment as an engineer dealing with soil descriptions and characterizations.

62. "Source control BMP" means a best management practice (BMP) that is intended to prevent pollutants from entering storm water. Examples include erosion control practices, maintenance of storm water facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

63. "Stabilized" means the application of BMP's sufficient to protect soil from the erosive forces of raindrop impact and flowing water. Examples include, but are not limited to, vegetative establishment, mulching, plastic covering, the early application of gravel base, and outlet and channel protection.

64. "Storm water" means the surface water runoff that results from all natural forms of precipitation.

65. "Storm water facility" means a component of a manmade drainage feature, or features, designed or constructed to perform a particular function or multiple functions, including, but not limited to, pipes, swales, bioretention facilities, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, oil/water separators and sediment basins. Storm water facilities shall not include building gutters, downspouts and drains serving one single-family residence.

66. "Storm water quality control" means the control of the introduction of pollutants into storm water and the process of separating pollutants from storm water. Storm water quality control facilities include, but are not limited to, source controls, biofiltration/biofilter facilities, wetponds, wetland forebays, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

67. "Storm water quantity control" means the control of the rate and/or volume of storm water released from a development site. Storm water quantity control facilities include, but are not limited to, detention and retention facilities.

68. "Technical deviation" means permission granted by the director to deviate from the provisions of the manual.

69. "Variance" means permission granted by the Kitsap County hearing examiner to deviate from the provisions of this title.

70. Water Quality Design Storm Event. The water quality design storm, used for the design of water quality treatment facilities, shall be the six-month, twenty-four-hour storm event. In that the precipitation data from isopluvial maps is not available for the six-month, twenty-four-hour storm event, the design engineer can use sixty-four percent of the two-year, twenty-four-hour precipitation as equivalent to the six-month, twenty-four-hour precipitation.

71. "Water quality sensitive area" means areas that are sensitive to a change in water quality, including but not limited to, lakes, ground water management areas, ground water special protection areas, sole source aquifers, critical aquifer recharge areas, well head protection areas, closed depressions, fish spawning and rearing habitat, wildlife habitat and shellfish protection areas.

72. "Wetland" means those areas of Kitsap County that are defined by separate ordinance, regulation or statute as wetlands.

73. "Wetpond" means a storm water basin which is intended to maintain a permanent pool of water equal to the post-development runoff volume of the six-month frequency, twenty-four-hour duration design storm.

(Ord. 433 (2009) § 5, 2009: Ord. 375 (2007) § 1, 2007: Ord. 290 (2002) § 1, 2002: Ord. 199 (1996) § 2.10, 1996)

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Chapter 12.10 PERMITS

Sections:

- 12.10.010 Review by department of community development.
- 12.10.020 Expiration of existing construction plan approval.
- 12.10.030 Site development activity permits required.
- 12.10.040 Exemptions.
- 12.10.050 Permit requirements.
- 12.10.060 Professional engineer required when.
- 12.10.070 Off-site analysis.
- 12.10.080 Geotechnical analysis.
- 12.10.090 Soils analysis.
- 12.10.100 Permit modifications.
- 12.10.110 Erosion and sedimentation control.

12.10.010 Review by department of community development.

Proposed site development activities shall be reviewed by the Kitsap County department of community development to determine the permits required.

(Ord. 290 (2002) § 2, 2002: Ord. 199 (1996) § 3.10, 1996)

12.10.020 Expiration of existing construction plan approval.

Any construction plans previously approved by Kitsap County shall expire six months after the effective date of the ordinance codified in this chapter. The director may extend the expiration date if the project is under construction and progressing satisfactorily towards final completion.

(Ord. 199 (1996) § 3.15, 1996)

12.10.030 Site development activity permits required.

A site development activity permit, issued by the Kitsap County department of community development, shall be required for any of the following activities:

- (1) Site development or redevelopment activities that meet the definition of a major development;
- (2) Site development or redevelopment activities that require connection to a public storm drainage system;
- (3) Grading activities that result in the movement of one hundred fifty cubic yards or more of earth;
- (4) Grading activities that will result in a temporary or permanent slope having a steepness exceeding three to one (three feet horizontal to one foot vertical) and having a total slope height, measured vertically from toe of slope to top of slope, exceeding five feet.
- (5) Grading activities that include the construction of embankment berms which will result in the impoundment of water to a depth exceeding eighteen inches and/or with a maximum volume exceeding two thousand five hundred cubic feet of water;
- (6) Grading activities that will result in the diversion of existing drainage courses, both natural and manmade, from their natural point of entry or exit from the grading site;
- (7) Any land clearing or grading on slopes steeper than thirty percent, or within the mandatory setback of a wetland, stream, lake, Puget Sound, as established by separate ordinance or by the Kitsap County department of community development.

No site development activity, including land clearing, grading or other construction activity as described in this title, shall occur until a site development activity permit has been issued, nor shall said site development activity continue without a site development activity permit in force.

(Ord. 290 (2002) § 3, 2002: Ord. 199 (1996) § 3.21 (part), 1996)

12.10.040 Exemptions.

Commercial agriculture and forest practices regulated under Title 222 WAC are exempt from the provisions of this chapter.

Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program, shall be exempt from the provisions of this chapter.

Road construction activities undertaken by Kitsap County road department shall be exempt from the administrative requirements of this title, but shall comply fully with the technical requirements contained herein.

Grading activities described in Section 12.16.090 are exempt from the provisions of this chapter.

Residential lots 2.5 acres or larger shall be exempt from the provisions of Sections 12.20.030 and 12.20.080 unless otherwise determined by the director. Cases where the exemption does not apply includes, but is not limited to, sites within or adjacent to critical areas or watersheds, steep or unstable slopes, or where the cumulative impacts of development warrant. Site development activities taking place on individual lots of 2.5 acres or larger, which meet the definition of a major development, are not exempt from the requirements of Chapter 12.20. Proposed access roadways serving residential lots larger than 2.5 acres which meet the definition of a major development, are not exempt from the requirements of Chapter 12.20.

(Ord. 199 (1996) § 3.21 (part), 1996)

12.10.050 Permit requirements.

The director shall establish requirements for the issuance of site development activity permits, subject to the following criteria:

(1) All site development activities shall comply with the standards, specifications and requirements contained in the Stormwater Design Manual.

(2) The director shall establish fees for site development activity permits. Site development activity permit fees shall include fees for the review of permit applications and documents and for inspections during construction. Site development activity permit fees, including permit application fees, shall be detailed in the Kitsap County Development Permit Fee Schedule (Section 21.06.100).

(Ord. 291 (2002) § 5, 2002Ord. 199 (1996) § 3.22, 1996)

12.10.060 Professional engineer required when.

Unless otherwise required by Chapter 12.14 or 12.16, site development activity permit applications shall require the submittal of documents prepared by a qualified professional engineer when one of the following conditions exists:

(1) Any land use or building or development on real property which meets the definition of a major development; or

(2) Any improvements within the boundaries of Kitsap County rights-of-way for which Kitsap County will ultimately assume responsibility for maintenance; or

(3) Any site development activity that the director deems to be in the public's best interest to require that certain site development activity permit application submittal documents be prepared by a professional civil engineer.

(Ord. 199 (1996) § 3.23, 1996)

12.10.070 Off-site analysis.

All site development activity permit applications which meet any of the criteria listed in Section 12.10.060 shall include, along with other required submittal documents, an off-site drainage analysis as described in Section 12.20.030(6) and Section 12.20.080(6), prepared by a qualified professional engineer and based on a field investigation of the development's off-site contributing and receiving drainage areas.

(Ord. 199 (1996) § 3.24, 1996)

12.10.080 Geotechnical analysis.

All site development activity permit applications for development activities where grading or the construction of retention facilities, detention facilities, or other storm water facilities is proposed within two hundred feet of slopes steeper than thirty percent, or where the director deems that the proposed construction poses a potential hazard due to its proximity to a slope, shall, when required by the director, include a geotechnical analysis, prepared by a qualified engineer. The geotechnical analysis shall address the effects of groundwater interception and infiltration, seepage, potential slip planes and changes in soil bearing strength.

(Ord. 199 (1996) § 3.25, 1996)

12.10.090 Soils analysis.

All site development activity permit applications which meet any of the criteria listed in Section 12.10.060, where the soils underlying the proposed project have not been mapped, or where existing soils maps of the project site are inconsistent, or where the director deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis, shall include a soils investigation report.

(Ord. 199 (1996) § 3.26, 1996)

12.10.100 Permit modifications.

Proposed modifications to an approved site development activity permit must be submitted to the department of community development and be reviewed for compliance with this title. Substantial proposed modifications, as determined by the director, shall require additional review fees and shall require re-issuance of the required permit. Minor proposed modifications may be accepted by the director without requiring the re-issuance of the accepted permit or the payment of additional review fees.

(Ord. 290 (2002) § 4, 2002; Ord. 199 (1996) § 3.30, 1996)

12.10.110 Erosion and sedimentation control.

All final drainage, grading, clearing or other site development plans requiring acceptance from the Kitsap County department of public works shall include a plan for the control of erosion and sedimentation as required in Sections 12.14.010 and 12.14.020, for the period beginning with the commencement of site development activity and continuing without interruption until permanent site stabilization is achieved.

No clearing, grubbing, grading or other construction activity may take place on a project site until an erosion and sedimentation control plan has been approved by the department of public works.

(Ord. 199 (1996) § 3.40, 1996)

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Chapter 12.12
COVENANTS, SURETIES AND LIABILITY INSURANCE

Sections:

- 12.12.010 Site stabilization.
- 12.12.020 Performance covenant for site stabilization.
- 12.12.030 Performance surety for site stabilization.
- 12.12.040 Performance bond for uncompleted site improvements.
- 12.12.050 Commercial liability insurance.
- 12.12.060 Maintenance bonds.

12.12.010 Site stabilization.

Prior to the issuance of a site development activity permit and prior to beginning any construction activity on a project site, the owner of the project will be required to record a performance covenant or post a performance surety for site stabilization and erosion and sedimentation control. In addition, the owner may be required to provide a certificate of commercial liability insurance.

This performance requirement for stabilization and erosion control should not be confused with the performance bond accepted at the time of final plat recording as a surety for construction items not yet completed. When a performance bond is accepted for a final plat in lieu of construction completion, the surety or covenant for stabilization and erosion control will be released, and the new performance bond shall cover site stabilization and erosion control along with the other incomplete construction items. (Ord. 199 (1996) § 4.10, 1996)

12.12.020 Performance covenant for site stabilization.

For project sites with less than five acres of land disturbing activity, a performance covenant may be recorded in lieu of performance surety for site stabilization prior to issuance of the site development activity permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with the storm water management ordinance. This covenant shall be recorded with the Kitsap County auditor and shall run with the land until such a time as Kitsap County issues final acceptance of the permitted activities, or until a separate performance bond is posted prior to final plat approval. Upon issuance of final project approval, the department of public works will record a document that extinguishes the performance covenant.

If the site work is determined by the director to be in violation of the storm water management ordinance, the county may enforce the performance covenant to provide temporary and permanent site stabilization. In this case, the project proponent will be charged for all associated costs and, if required, a lien will be placed on the property. (Ord. 199 (1996) § 4.11, 1996)

12.12.030 Performance surety for site stabilization.

The term "bond," as defined in this title, means a surety bond, assignment of funds, or irrevocable bank letter of credit. For project sites with five or more acres of land disturbing activity, a performance bond shall be posted prior to issuance of a site development activity permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with this title. The amount of the performance bond shall be as follows:

(1) One hundred fifty percent of the estimated cost of performing minor grading and installing temporary erosion and sedimentation control, and permanent site stabilization measures to bring the construction site into compliance with the ordinance. A cost estimate shall be submitted by the project engineer subject to the approval of the director. The minimum amount of the bond shall be five thousand dollars; or

(2) One thousand dollars per acre of land disturbing activity. No engineer's estimate is required.

If the site work is determined by the director to be in violation of the storm water management ordinance, the county may use the performance bond to provide temporary and permanent site stabilization.

All performance bonds shall run continuously until released by the county, and shall not be subject to an expiration or cancellation date.

(Ord. 199 (1996) § 4.12, 1996)

12.12.040 Performance bond for uncompleted site improvements.

For single-family residential developments, a performance bond shall be provided prior to the final recording of the plat/PUD, guaranteeing completion of all site improvements not yet completed. The amount of the performance bond shall be one hundred fifty percent of the estimated cost of the improvements. The estimated cost of the construction shall be determined by a professional engineer subject to the approval of the director.

All performance bonds shall run continuously until released by the county, and shall not be subject to an expiration or cancellation date.

(Ord. 199 (1996) § 4.20, 1996)

12.12.050 Commercial liability insurance.

The owner of any project must provide a certificate of liability insurance to the department of public works prior to issuance of a site development activity permit. The liability insurance shall remain in force until final project approval is issued by the county. The commercial liability insurance shall be in the amount of not less than one million dollars combined single limit bodily injury and property damage, with a two million dollar aggregate. Such insurance shall include Kitsap County, its officers and employees as additional insureds, with respect to the terms and conditions of the policy.

(Ord. 199 (1996) § 4.30, 1996)

12.12.060 Maintenance bonds.

A maintenance bond is required for residential plats/PUD's and other projects for which maintenance of the storm water facilities and/or roads is ultimately to be taken over by the county.

Prior to the final approval of construction and release of any performance sureties, a maintenance bond must be posted and maintained by the project owner for a period of two years. The maintenance bond shall guarantee the storm water facilities and roads constructed under permit against design defects and/or failures in workmanship, and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. At the end of this time, the county will inspect the system and, when the facility is acceptable and eighty percent of the lots in that phase have been improved, the county will take over the maintenance and operations of the system. In the event that eighty percent of the lots in a residential development have not been improved by the end of the two-year maintenance period, the maintenance bond may be extended, subject to the approval of the director, for one additional year.

The amount of the maintenance bond shall be ten percent of the estimated construction cost of the storm water facilities and roads requiring maintenance, or five thousand dollars, whichever is greater. The construction cost of the facilities requiring maintenance shall be estimated by the project engineer, subject to the approval of the director.

(Ord. 199 (1996) § 4.40, 1996)

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**Chapter 12.14
EROSION AND SEDIMENT CONTROL**

Sections:

- 12.14.010 Minor developments.
- 12.14.020 Major developments.
- 12.14.030 Erosion and sedimentation control plan required.
- 12.14.040 Major development erosion and sedimentation control minimum requirements.
- 12.14.050 Erosion control design storm event.

12.14.010 Minor developments.

(a) All minor developments, as defined in this title, shall be required to control erosion and sedimentation during construction, to permanently stabilize soil exposed during construction, and to comply with the minor development requirements described in subsection (b)(1) through (5) of this section.

(b) Minor Development Requirements.

(1) Construction Access Route. Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with quarry spall or crushed rock to minimize the tracking of soils and debris onto public roads.

(2) Stabilization of Denuded Area. All exposed soils shall be stabilized by suitable application of BMP's, including but not limited to, sod or other vegetation, mat covering, mulching or application of compacted ground base material on areas to be paved. All BMP's shall be selected, designed and maintained in accordance with the manual. From October first to April thirtieth, no soils shall remain unstabilized for more than two days. From May first to September thirtieth, no soils shall remain unstabilized for more than seven days.

At all times of the year, the contractor shall have sufficient materials, equipment and labor on-site to stabilize and prevent erosion from all denuded areas within twelve hours as site and weather conditions dictate.

(3) Protection of Adjacent Properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMP's.

(4) Maintenance. All erosion and sediment control BMP's shall be regularly inspected and maintained to ensure continued performance of their intended function.

(5) Other BMP's. Any adverse effects of increased runoff resulting from land disturbing and/or land development activities shall be controlled by appropriate BMP's.

(Ord. 199 (1996) §§ 5.10, 5.11, 1996)

12.14.020 Major developments.

Any new development meeting the definition of a major development, shall comply with Section 12.14.040. For any redevelopment project meeting the definition of a major development, those portions of the site that are being redeveloped shall comply with Section 12.14.040.

(Ord. 199 (1996) § 5.20, 1996)

12.14.030 Erosion and sedimentation control plan required.

Compliance with the erosion and sedimentation control requirements of Section 12.14.040 shall be demonstrated through the implementation of an approved erosion and sedimentation control plan.

(Ord. 199 (1996) § 5.21, 1996)

12.14.040 Major development erosion and sedimentation control minimum requirements.

(1) Stabilization and Sediment Trapping. All exposed and unworked soils, including soil stockpiles, shall be stabilized by suitable application of BMP's which protect soil from the erosive forces of raindrop impact and flowing water. Applicable practices include, but are not limited to vegetative establishment, mulching, plastic covering, and the early application of gravel base on areas to be paved. From October first to April thirtieth, no soils shall remain unstabilized for more than two days. From May first to September thirtieth, no soils shall remain unstabilized for more than seven days.

At all times of the year, the contractor shall have sufficient materials, equipment and labor on-site to stabilize and prevent erosion from all denuded areas within twelve hours as site and weather conditions dictate.

(2) **Delineation of Clearing and Easement Limits.** Clearing limits, setbacks, buffers and sensitive or critical areas such as steep slopes, wetlands and riparian corridors shall be clearly marked in the field and inspected by the Kitsap County department of community development prior to commencement of land clearing activities.

(3) **Protection of Adjacent Properties.** Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMP's.

(4) **Timing and Stabilization of Sediment Trapping Measures.** Sediment ponds and traps, perimeter dikes, sediment barriers and other BMP's intended to trap sediment on-site shall be constructed as a first step in grading. These BMP's shall be functional before additional land disturbing activities take place. Earthen structures such as dams, dikes and diversions shall be stabilized according to the timing indicated in subsection (1) of this section.

(5) **Slope Stabilization.** Cut and fill slopes shall be constructed in a manner that will minimize erosion. Roughened soil surfaces are preferred to smooth surfaces. Interceptors should be constructed at the top of long, steep slopes which have significant areas above that contribute runoff. Concentrated runoff should not be allowed to flow down the face of a cut or fill slope unless contained within an adequate channel or pipe slope drain. Wherever a slope face crosses a water seepage plane, adequate drainage or other protection should be provided. In addition, slopes should be stabilized in accordance with subsection (1) of this section.

(6) **Controlling Off-Site Erosion.** Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of storm water runoff from the development site by the implementation of appropriate BMP's to minimize adverse downstream impacts.

(7) **Stabilization of Temporary Conveyance Channels and Outlets.** All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected flow velocity from a two-year frequency, twenty-four-hour duration storm for the post-development condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

(8) **Storm Drain Inlet Protection.** All storm drain inlets made operable during construction shall be protected so that storm water runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment. After proper written application, the requirement for inlet protection may be waived by the director on a site-specific basis when the conveyance system downstream of the inlet discharges to an appropriate on-site sediment control BMP, including but not limited to sediment ponds or traps, and the conveyance system will be adequately cleaned following site stabilization.

(9) **Underground Utility Construction.** The construction of underground utility lines shall be limited, where feasible, to no more than five hundred feet of open trench at any one time. Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of the trench. Dewatering devices shall discharge to an appropriate sediment trap or pond, preceded by adequate energy dissipation, prior to runoff leaving the site.

(10) **Constructed Access Routes.** Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road by use of appropriate BMP's such as a stabilized construction entrance. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly, as a minimum, at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.

(11) **Removal of Temporary BMP's.** All temporary erosion and sediment control BMP's shall be removed within thirty days after final site stabilization is achieved or after the temporary BMP's are no longer needed. Trapped sediment shall be removed or stabilized on-site. Disturbed soil areas resulting from removal of temporary BMP's shall be permanently stabilized. The removal of temporary erosion and sediment control BMP's may not be required for those projects, such as single-family plats, that will be followed by additional construction under a different permit. In these circumstances, the need for removing or retaining the measures will be evaluated on a site-specific basis.

(12) Dewatering Construction Sites. Dewatering devices shall discharge into an appropriate sediment trap or pond designed to accept such a discharge, preceded by adequate energy dissipation, prior to runoff leaving the site.

(13) Control of Pollutants Other Than Sediment on Construction Sites. All pollutants other than sediment that occur on-site during construction shall be handled and legally disposed of in a manner that does not cause contamination of surface waters. Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete byproducts and construction materials.

(14) Maintenance. All temporary and permanent erosion and sediment control BMP's shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with the manual. The applicant shall be responsible for assuring that any such facilities damaged during floods, storms or other adverse weather conditions are immediately returned to normal operating condition.

(15) Financial Liability. A performance covenant or performance surety shall be required for all projects, to ensure compliance with the approved erosion and sediment control plan, as outlined in Chapter 12.12.
(Ord. 199 (1996) § 5.30, 1996)

12.14.050 Erosion control design storm event

Facilities designed for the control of erosion and sedimentation shall be designed for the erosion and sedimentation control design storm event, defined as the two-year, twenty-four-hour duration storm.
(Ord. 199 (1996) § 5.40, 1996)

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Chapter 12.16 GRADING

Sections:

- 12.16.010 Authority of the director.
- 12.16.020 Grading plan required.
- 12.16.030 Abbreviated grading plan.
- 12.16.040 Erosion and sedimentation control.
- 12.16.050 Drainage.
- 12.16.060 Minimum grading standards.
- 12.16.070 Hazards.
- 12.16.080 Additional review.
- 12.16.090 Permit exemptions.
- 12.16.100 Changes in site topography.
- 12.16.110 Rockeries and retaining structures.
- 12.16.120 Maintenance.
- 12.16.130 Progress of work.
- 12.16.140 Expiration of existing grading permits.

12.16.010 Authority of the director.

The director is the designated agent for the issuance of site development activity permits for grading, and shall have the authority to prepare regulations and set administrative procedures to carry out the purposes and intent of this chapter.

(Ord. 199 (1996) § 6.05, 1996)

12.16.020 Grading plan required.

Grading projects meeting the criteria of Section 12.10.060 shall be required to have an approved engineered grading plan.

(Ord. 199 (1996) § 6.10, 1996)

12.16.030 Abbreviated grading plan.

Grading projects meeting the definition of a minor development will require an approved abbreviated grading plan in lieu of an engineered grading plan. An abbreviated grading plan is a grading plan that does not require the seal of a professional civil engineer.

(Ord. 199 (1996) § 6.11, 1996)

12.16.040 Erosion and sedimentation control.

The grading plan shall include a temporary erosion and sedimentation control plan. The plan shall clearly indicate the construction sequence for establishment of all erosion and sedimentation control work, both temporary and permanent. The plan shall conform to all requirements and standards for erosion and sedimentation control set forth in Chapter 12.14.

(Ord. 199 (1996) § 6.12, 1996)

12.16.050 Drainage.

(a) All grading activities shall conform to the requirements of this title concerning storm water management.

(b) Where required by the director, all discharge of runoff from the project site shall be of like quality, flow rate and velocity as that which flowed from the project site prior to the work for which the site development activity permit has been issued.

(c) Storm water flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

(Ord. 199 (1996) § 6.13, 1996)

12.16.060 Minimum grading standards.

This title sets forth minimum standards which shall apply to grading activities as described in Section 12.10.030. For circumstances not specifically addressed in this title or the Stormwater Design Manual, the provisions of the Uniform Building Code as currently in effect and adopted in Title 14 of this code, shall apply.

(Ord. 199 (1996) § 6.14, 1996)

12.16.070 Hazards.

Whenever the director determines that an existing excavation, embankment or fill on private property has become a hazard to public safety, endangers property, or adversely affects the safety, use or stability of a public way, critical drainage area, or drainage channel, such conditions shall become a violation of Section 12.32.130.

(Ord. 199 (1996) § 6.15, 1996)

12.16.080 Additional review.

Permits regulating grading activities for major developments may be subject to review and recommendation of approval by the Kitsap County department of community development.

(Ord. 199 (1996) § 6.16, 1996)

12.16.090 Permit exemptions.

The following grading activities shall not require the issuance of a site development activity permit:

- (1) Excavation for utilities, or for wells or tunnels allowed under separate permit by other agencies;
- (2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt the placement of any fill material removed from such an excavation, and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than five feet after the completion of such a structure;
- (3) Agricultural crop management outside of critical drainage areas limited to the preparation of soil by turning, discing or other means endorsed by the Kitsap County Conservation District;
- (4) Excavation for cemetery graves;
- (5) Landscape installation where fill is confined to less than one foot of topsoil and land disturbing activities are limited to less than one acre;
- (6) The disposal of solid waste, wood waste, problem waste and demolition waste authorized pursuant to RCW 70.95, and regulations presently enacted or as may be amended or as specifically approved by the Bremerton-Kitsap County health district;
- (7) Mining, quarrying, excavating, processing and/or stockpiling of rock, sand, gravel, aggregate or clay where established and provided by law, and a permit for said activity has been issued by the state of Washington or the federal government, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous land and the activities meet the minimum requirements of this title;
- (8) Exploratory excavations under the direction of a qualified professional engineer;
- (9) Grading activities already approved by separate permit granted by any governing authority, provided that the activities meet the minimum requirements of this title;
- (10) Emergency sandbagging, diking, ditching, filling or similar work during or after periods of extreme weather conditions when done to protect life or property;
- (11) Maintenance activities within public rights-of-way performed by Kitsap County personnel.

However, exemption from the site development activity permit does not constitute an exemption from the other requirements of this title.

(Ord. 199 (1996) § 6.20, 1996)

12.16.100 Changes in site topography.

(a) The maximum surface gradient on any artificially created slope shall be two feet of horizontal run to one foot of vertical fall (2:1). This gradient may be increased to that gradient which can be demonstrated through engineering calculations to be stable, if, in the opinion of the director, it has been demonstrated by the applicant through engineering calculations performed by a qualified professional engineer that surface erosion can be controlled to that erosion rate equal to a properly stabilized 2:1 slope under the same conditions.

(b) The applicant shall, at all times, protect adjacent private properties and public rights-of-way or easements from damage occurring during grading operations. The applicant shall restore public improvements damaged by his/her operations.

(c) The applicant shall be responsible for obtaining and coordinating all required state or federal permits associated with the filling of wetlands or other regulated activities.
(Ord. 199 (1996) § 6.30, 1996)

12.16.110 Rockeries and retaining structures.

Any rockery or other retaining structure greater than four feet in height shall be permitted under a separate building permit issued by the Kitsap County department of community development.
(Ord. 199 (1996) § 6.40, 1996)

12.16.120 Maintenance.

It shall be the responsibility of the applicant to maintain all erosion control and drainage facilities in good operating condition at all times, as required in Chapter 12.14.
(Ord. 199 (1996) § 6.50, 1996)

12.16.130 Progress of work.

All work permitted under this title shall proceed continuously to completion in an expeditious manner unless otherwise authorized by the director, with the intent that work may be halted due to weather conditions or the need to coordinate other construction on the project site. Site development activity permits, issued for grading only, shall expire six months after issuance.
(Ord. 199 (1996) § 6.60, 1996)

12.16.140 Expiration of existing grading permits.

Any grading permit issued by Kitsap County and currently valid as of the effective date of the ordinance codified in this chapter shall expire six months after the effective date of said ordinance.
(Ord. 199 (1996) § 6.70, 1996)

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Chapter 12.20 STORM WATER MANAGEMENT

Sections:

- 12.20.010 Redevelopment activities.
- 12.20.020 Approved hydrological methods for design.
- 12.20.030 Storm water quantity control – Engineered flow control.
- 12.20.035 Storm water quantity control – Prescriptive flow control.
- 12.20.040 Storm water quality control.
- 12.20.050 Illicit discharges.
- 12.20.060 Experimental best management practices.
- 12.20.070 Incorporation into storm water quantity control facilities.
- 12.20.080 Minimum requirements – Major developments.
- 12.20.090 Storm water conveyance facilities.
- 12.20.100 Easements, tracts and covenants.
- 12.20.110 Wetlands.
- 12.20.120 Regional facilities.
- 12.20.130 Basin planning.

12.20.010 Redevelopment activities.

Where redevelopment activities meet the definition of a major development, the requirements of this chapter shall apply to that portion of the site that is being redeveloped. In addition, where one or more of the following conditions exist, the requirements of this chapter shall apply, to the maximum extent practicable, for the entire site, including adjoining parcels, if they are part of the project:

- (1) Existing sites greater than one acre in size with fifty percent or more impervious surface;
 - (2) Sites that discharge to a receiving water that has a documented water quality problem. Subject to local priorities, a documented water quality problem includes, but is not limited to, water bodies:
 - (A) Listed in reports required under Section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses,
 - (B) Listed under Section 304(1)(1)(A)(i), 304(1)(1)(A)(ii), or 304(1)(1)(B) of the Clean Water Act as not expected to meet water quality standards or water quality goals,
 - (C) Listed in Washington State's Nonpoint Source Assessment required under Section 316(a) of the Clean Water Act that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards;
 - (3) Sites where the need for additional storm water control measures have been identified through a basin plan, watershed ranking process, or through Growth Management Act planning.
- (Ord. 199 (1996) § 7.05, 1996)

12.20.020 Approved hydrological methods for design.

Estimation of peak storm water runoff rates used in the design of storm water quantity control facilities shall utilize hydrograph methods of analysis approved by the director. The design of storage facilities that are a part of storm water quantity control facilities shall be designed using methods approved by the director.

(Ord. 199 (1996) § 7.10, 1996)

12.20.030 Storm water quantity control – Engineered flow control.

The following minimum requirements for storm water quantity control shall apply to all land developments that meet the definition of a major development and create ten thousand square feet or greater of new impervious surface:

- (1) All surface water and storm water entering the development site in its pre-development state shall be received at the naturally occurring or otherwise legally existing locations. All surface water and storm water leaving the development site shall be discharged at all times during and after development at the naturally occurring or otherwise legally existing locations so as not to be diverted onto or away from adjacent downstream properties, except, diversion which will correct an existing manmade downstream problem may be permitted by the director. For the purposes of this title, "naturally occurring location"

means the location of those channels, swales and pre-existing and established systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, site inspections, decisions of a court of law, or other means determined appropriate by the director.

(2) The post-development peak storm water discharge rates from the development site for the two-, ten- and one-hundred-year, twenty-four-hour duration storm events shall at no time exceed the pre-development peak storm water runoff rates for the same design storm events, except as expressly permitted by this title. Also, where storm water directly or indirectly discharges to open channels or streams, streambank erosion protection is required; the post-development peak storm water discharge rate from the development site for the two-year, twenty-four-hour duration storm event shall not exceed fifty percent of the pre-development peak storm water runoff rate for the same design storm event. The director may require that runoff from a development site be controlled for additional design storm events.

(3) Closed depressions shall be analyzed using hydrograph routing methods. Infiltration shall be addressed where appropriate. If a proposed project will discharge runoff to an existing closed depression that has greater than five thousand square feet of water surface area at overflow elevation, the following requirements must be met:

(A) Case 1: The pre-development one-hundred-year, seven-day and twenty-four-hour duration design storms from the drainage basin tributary to the closed depression are routed into the closed depression using only infiltration as outflow. If the design storms do not overflow the closed depression, no runoff may leave the site for the same storm events following development of a proposed project. This may be accomplished by excavating additional volume in the closed depression subject to all applicable requirements. If a portion of the depression is located off the project site, impacts to adjacent properties shall be evaluated.

(B) Case 2: The pre-development one-hundred-year, seven-day and twenty-four-hour duration design storm events from the drainage basin tributary to the closed depression are routed to the closed depression using only infiltration as outflow, and overflow occurs. The closed depression shall then be analyzed as a detention/infiltration pond. The required performance, therefore, shall not exceed the pre-development runoff rates for fifty percent of the two-year and one hundred percent of the ten-year and one-hundred-year, twenty-four-hour duration and one-hundred-year, seven-day duration design storms. This will require that a control structure, emergency overflow spillway, access road, and other applicable design criteria be met. If the facility will be maintained by Kitsap County, the closed depression shall be placed in a dedicated tract. If the facility will be privately maintained, the tract shall be located within a drainage easement. If a portion of the depression is located off the project site, impacts to adjacent properties shall be evaluated.

(C) Case 3: When a proposed project is contributory to a closed depression located off-site, the volume of runoff discharged may not be increased for the two-, ten- and one-hundred-year, twenty-four-hour duration, and the one-hundred-year, seven-day duration storm events. The exception to this requirement is in the case where discharge would not result in an increase in water surface elevation of greater than 0.01-foot for the one-hundred-year storm events.

(4) Land developments shall provide storm water quantity control facilities designed to meet, as a minimum performance standard, the requirements of this chapter, except in the following circumstances:

(A) The development site discharges directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams discharging into Puget Sound, where runoff quantity control is not required by other governmental agencies and streambank or shoreline erosion will not occur.

(B) The development site discharges to a regional storm water facility approved by the director to receive the developed site runoff.

(C) The development site discharges to a receiving body of water (lake, wetland, etc.) where it can be demonstrated by the applicant, to the satisfaction of the director, that storm water quantity control is not warranted.

(5) In the event that conditions downstream from a proposed development site are determined by the director to be exceptionally sensitive to potential storm water discharges from the subject site, the director may require a factor of safety be applied to the total retention/detention storage volume and/or a reduction of allowable storm water release rates.

(6) Submittals for all proposed development projects shall include an analysis of downstream water quantity impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or

potential impacts to be evaluated and mitigated shall include, but not be limited to, excessive streambank erosion, flooding, surcharging of existing closed drainage conveyance facilities, discharge to closed depressions, and discharge to existing off-site runoff control facilities.

(7) Retention facilities and open storm water quantity control facilities shall not be located in dedicated public road rights-of-way.

(8) Reasonable access for maintenance, as determined by the director, shall be provided to all storm water facilities.

(9) As the first priority, streambank erosion control BMP's shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality is protected. Streambank erosion control BMP's shall be selected, designed and maintained according to the manual. Streambank erosion control BMP's shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County department of community development.

(10) Where storm water detention is proposed to meet storm water quantity controls, volume correction factors as outlined in the manual shall be applied to increase pond size.

(Ord. 375 (2007) § 2, 2007; Ord. 199 (1996) § 7.20, 1996)

12.20.035 Storm water quantity control – Prescriptive flow control.

All minor developments creating greater than 2,000 square feet of new impervious surface and major developments creating less than 10,000 square feet of new impervious surface shall:

(1) Implement either individual downspout infiltration or roof downspout dispersion per the *Kitsap County Stormwater Design Manual* to the maximum extent possible; or

(2) Discharge to a regional water quantity control facility designed to receive the developed site runoff.

(Ord. 375 (2007) § 4, 2007)

12.20.040 Storm water quality control.

Water quality best management practices (BMP's) shall be used to the maximum extent practicable to control pollution in storm water. Water quality BMP's shall be used to comply with the standards of this title, including those contained in the manual. Construction and post-development water quality BMP's shall be utilized for all major development activities. Said water quality BMP's shall provide runoff water quality treatment for all storm events with intensities less than or equal to the water quality design storm event, as defined in Section 12.20.080(2).

(Ord. 199 (1996) § 7.30, 1996)

12.20.050 Illicit discharges.

Illicit discharges, as described in Section 12.30.020, or illicit connections to a storm water drainage system, as described in Section 12.30.030, are prohibited.

(Ord. 199 (1996) § 7.32, 1996)

12.20.060 Experimental best management practices.

In those instances where appropriate best management practices are not in the manual, experimental BMP's may be considered. In an effort to improve storm water quality technology, experimental BMP's are encouraged as a means of solving problems in a manner not addressed by the manual. Experimental BMP's must be approved by the director. The director may require that the performance of experimental BMP's be monitored to document their effectiveness for future use.

(Ord. 199 (1996) § 7.33, 1996)

12.20.070 Incorporation into storm water quantity control facilities.

Water quality BMP's may be incorporated into the design of storm water quantity control facilities where appropriate.

(Ord. 199 (1996) § 7.34, 1996)

12.20.080 Minimum requirements – Major developments.

The following minimum requirements for storm water quality control shall apply to all land developments that meet the definition of a major development:

(1) Source Control of Pollution. Source control BMP's shall be applied to all projects to the maximum extent practicable.

(2) Storm Water Treatment BMP's. Treatment BMP's shall be sized to capture and treat developed runoff from the water quality design storm, defined as the six-month, twenty-four-hour duration storm event. For the purpose of this title, the precipitation from a six-month, twenty-four-hour storm event shall be considered equivalent to sixty-four percent of the precipitation from a two-year, twenty-four-hour storm event. All treatment BMP's shall be selected, designed and maintained according to the manual.

Storm water treatment BMP's shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County department of community development.

All major developments shall provide treatment of storm water discharge utilizing wetponds, bioretention facilities, dispersion, and/or biofiltration BMP's. Other water quality BMP's may only be substituted subject to the granting by the director subject to the provisions of the Stormwater Design Manual.

(3) Wetponds or bioretention facilities shall be required for development sites with greater than five acres of new impervious surface subject to motor vehicle use, which: (a) discharges directly to a regional facility, receiving body of water, or closed depression without providing on-site storm water quantity control; or (b) discharges directly or indirectly to a Class 1, 2 or 3 stream, or a Class 1 or 2 wetland within one mile downstream of the site.

(4) Presettling Basin. All storm water, prior to discharge to a facility designed to utilize infiltration, shall pass through an appropriate storm water treatment BMP designed to remove suspended solids.

(5) Water Quality Sensitive Areas. Where the director determines that these major development minimum requirements do not provide adequate protection of water quality sensitive areas, either on-site or within the drainage basin in which the development is located, more stringent controls shall be required to protect water quality.

An adopted and implemented basin plan may be used to develop requirements for specific water quality sensitive areas.

(6) Downstream Analysis and Mitigation. All major developments shall conduct an analysis of downstream water quality impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include excessive sedimentation, streambank erosion, discharges to ground water contributing or recharge zones, violations of water quality standards, and spills and discharges of priority pollutants.

(7) Oil/Water Separators. All storm water from paved areas subject to motor vehicle traffic shall flow through a spill-containment type oil/water separator prior to discharge.

Development sites that include use, storage or maintenance of heavy equipment, and those development sites that include storage or transfer of petroleum products, shall utilize appropriately sized API or CPS-type oil/water separators or a Washington State Department of Ecology approved equivalent.

(Ord. 375 (2007) § 3, 2007; Ord. 199 (1996) § 7.35, 1996)

12.20.090 Storm water conveyance facilities.

(a) All proposed developments must provide on-site storm water conveyance facilities having sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak storm water runoff rate resulting from a one-hundred-year, twenty-four-hour duration storm event, plus any existing upstream runoff that will be conveyed through the development site.

(b) Estimation of peak storm water runoff rates used in the design of water conveyance facilities shall use either the rational method or a hydrograph method of analysis accepted by the director.

(c) Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis, shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak storm water discharge for the twenty-four-year storm event. All newly constructed downstream drainageways and/or conveyance facilities shall have sufficient capacity to convey the post-development peak storm water discharge for the one-hundred-year storm event. Downstream improvements or additional on-site storm water quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The director has the authority to waive the requirement for downstream improvements.

(d) Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.

(Ord. 199 (1996) § 7.40, 1996)

12.20.100 Easements, tracts and covenants.

(a) Drainage easements shall be provided in a proposed development for all storm water conveyance systems that are not located in public rights-of-way or tracts. The drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems.

Drainage easements through structures is not permitted.

(b) Storm water facilities that are to be maintained by Kitsap County, together with maintenance access roads to the facilities, shall be located in public right-of-way, separate tracts dedicated to Kitsap County, or drainage easements located in designated open space. The exception is for storm water conveyance pipes that may be located within easements on private property, provided that all catch basins can be accessed without entering private property.

(c) All runoff from impervious surfaces, roof drains and yard drains shall be directed so as not to adversely affect adjacent properties. Wording to this effect shall appear on the face of all final plats/PUD's, and shall be contained in any covenants required for a development.

(Ord. 199 (1996) § 7.50, 1996)

12.20.110 Wetlands.

The following requirements apply only to situations where storm water discharges directly or indirectly into a wetland, and must be met in addition to meeting the requirements in major development minimum requirement, Section 12.20.080(2), Storm Water Treatment BMP's:

(1) Storm water discharges to wetlands must be controlled and treated to the same extent as all other discharges, with the goal of meeting State Water Quality and Groundwater Quality Standards.

(2) Discharges to wetlands shall maintain the hydroperiod and flows of pre-development site conditions to the extent necessary to protect the characteristic functions of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.

(3) Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat storm water.

(4) In order for constructed wetlands to be considered treatment systems, they must be constructed in areas which are not designated as wetland or wetland buffer or in other areas which are not in conflict with designated critical areas and associated buffers, and they must be managed for storm water treatment. If these systems are not managed and maintained in accordance with the manual for a period exceeding three years, these systems may no longer be considered constructed wetlands.

(5) Wetland BMP's shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County department of community development.

(Ord. 199 (1996) § 7.60, 1996)

12.20.120 Regional facilities.

When the director has determined that the public would benefit by the establishment of a regional storm water facility which would serve as an alternative to the construction of separate on-site drainage facilities, the director may recommend to the board that a regional storm water facility be constructed which would serve more than one development in providing storm water quantity and/or quality control. In the event that a regional storm water facility is required by the board, such a regional storm water facility shall be located outside of fish-bearing streams, unless otherwise accepted by the Washington State Department of Fish and Wildlife. All future developments constructed on lands designated by the board to be served by the regional facility shall, at the time of issuance of a site development activity permit for a development, be required to contribute a fair share to the cost of land purchase, design and construction of the regional facility. In the event that a proposed regional storm water facility is not yet in operation at the time of completion of construction of a development that is to be served by the regional facility, the applicant for the development shall be required to provide temporary storm water quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements, rather than in separate tracts.

(Ord. 199 (1996) § 7.70, 1996)

12.20.130 Basin planning.

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, storm water treatment, streambank erosion control, wetlands and water quality sensitive areas. Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements for storm water quantity or quality control addressed in this title, provided, that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this title in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMP's for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by Kitsap County.

(Ord. 199 (1996) § 7.80, 1996)

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**Chapter 12.24
OPERATION AND MAINTENANCE**

Sections:

- 12.24.010 Maintenance of storm water facilities by owners.
- 12.24.020 Maintenance covenant required for privately maintained drainage facilities.
- 12.24.030 County acceptance of new storm water facilities.
- 12.24.040 County acceptance of existing storm water facilities.
- 12.24.050 County inspections of privately maintained storm water facilities.
- 12.24.060 Inspection schedule.

12.24.010 Maintenance of storm water facilities by owners.

(a) Any person or persons holding title to a nonresidential property for which storm water facilities and BMP's have been required by Kitsap County shall be responsible for the continual operation, maintenance and repair of the storm water facilities and BMP's in accordance with the provisions of this title.

(b) For privately maintained storm water facilities, the maintenance requirements specified in this title, including the manual, shall be enforced against the owner(s) of the subject property served by the storm water facility.

(Ord. 199 (1996) § 8.10, 1996)

12.24.020 Maintenance covenant required for privately maintained drainage facilities.

(a) Prior to the beneficial use of a development constructed under a site development activity permit, the owner shall record a maintenance covenant which guarantees Kitsap County that the storm water facilities shall be properly operated, maintained and inspected. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the Kitsap County auditor.

(b) The director may require the owners of existing storm water facilities for which Kitsap County has not previously accepted operation and maintenance responsibility, to record a maintenance covenant, or to request that Kitsap County accept operation and maintenance responsibility for the storm water facilities subject to the requirements of this title.

(c) Maintenance covenants shall remain in force for the life of the development, or until the responsibility for the operation and maintenance of the subject storm water facilities is accepted by Kitsap County.

(Ord. 199 (1996) § 8.11, 1996)

12.24.030 County acceptance of new storm water facilities.

The county may accept for maintenance those new residential storm water facilities constructed under an accepted site development activity permit that meet the following conditions:

(1) Improvements in residential plats/PUD's have been completed on at least eighty percent of the lots, unless waived by the director; and

(2) All drainage facilities have been inspected and accepted by the director and said drainage facilities have been in satisfactory operation for at least two years; and

(3) All drainage facilities reconstructed during the maintenance period have been accepted by the director; and

(4) The storm water facility, as designed and constructed, conforms to the provisions of this title; and

(5) All easements and tracts required under this title, entitling the county to properly operate and maintain the subject drainage facility, have been conveyed to Kitsap County and have been recorded with the Kitsap County auditor; and

(6) For non-standard drainage facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by Kitsap County;

(7) A complete and accurate set of reproducible mylar as-built drawings have been provided to Kitsap County.

(Ord. 199 (1996) § 8.12, 1996)

12.24.040 County acceptance of existing storm water facilities.

Kitsap County may accept for maintenance those storm water facilities for residential developments existing prior to the effective date of the ordinance codified in this chapter that meet the following conditions:

- (1) Improvements in residential plats/PUD's have been completed on at least eighty percent of the lots; and
 - (2) An inspection by the director has determined that the storm water facilities are functioning as designed; and
 - (3) The storm water facilities have had at least two years of satisfactory operation and maintenance, unless otherwise waived by the director; and
 - (4) The person or persons holding title to the properties served by the storm water facilities submit a petition containing the signatures of the title holders of more than fifty percent of the lots served by the storm water facilities requesting that the county maintain the storm water facilities; and
 - (5) All easements required under this title, entitling the county to properly operate and maintain the subject storm water facilities, have been conveyed to Kitsap County and have been recorded with the Kitsap County auditor; and
 - (6) The person or persons holding title to the properties served by the storm water facilities show proof of the correction of any defects in the drainage facilities, as required by the director.
- (Ord. 199 (1996) § 8.13, 1996)

12.24.050 County inspections of privately maintained storm water facilities.

- (a) The director is authorized to develop an inspection program for privately owned and maintained storm water facilities in Kitsap County. The purpose of this inspection program shall be to determine if the storm water facilities, conveyance structures and water quality facilities are in good working order and are properly maintained, and to ensure that storm water quality BMP's are in place and that non-point source pollution control is being implemented.
 - (b) Whenever the provisions of the inspection program are being implemented, or whenever there is cause to believe that a violation of this title has been or is being committed, the inspector is authorized to inspect during regular working hours and at other reasonable times any and all storm water drainage facilities within Kitsap County to determine compliance with the provisions of this title.
 - (c) Prior to making any inspections, the director or his assignee shall follow the procedures delineated in Section 12.32.030.
- (Ord. 199 (1996) § 8.14, 1996)

12.24.060 Inspection schedule.

The director is authorized to establish a master inspection and maintenance schedule to inspect appropriate storm water facilities that are not owned and operated by Kitsap County. The party (or parties) responsible for maintenance and operation shall be identified. Critical storm water facilities, as so deemed by the director, may require a more frequent inspection schedule.

(Ord. 199 (1996) § 8.15, 1996)

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Chapter 12.28
CRITICAL DRAINAGE AREAS

Sections:

- 12.28.010 Special drainage improvements.
12.28.020 Designation.
12.28.030 Conflicting information.

12.28.010 Special drainage improvements.

In order to mitigate or eliminate potential drainage-related impacts on critical drainage areas, the director may require drainage improvements in excess of those required in other sections of this title. (Ord. 199 (1996) § 9.10, 1996)

12.28.020 Designation.

The following are designated as critical drainage areas:

- (1) All lands having a slope of thirty percent or greater:
 - (A) As determined by a topographic survey of the site, or
 - (B) As shown on a U.S.G.S. topographic quadrangle map, when other topographic survey information is not available, or
 - (C) As determined by the director based on field investigation of the site;
- (2) Geologically hazardous areas and historically documented unstable slopes;
- (3) All lands within two hundred feet of the ordinary high water mark of bodies of water possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;
- (4) All lands designated critical areas in any comprehensive drainage plan, or defined as critical areas by separate ordinance;
- (5) All lands that are classified as wetlands as defined by any separate Kitsap County ordinance or policy;
- (6) Any lands that have existing local requirements for the management of groundwater, aquifers or sole source aquifers;
- (7) Any lands that drain to a natural feature that is a closed depression;
- (8) Any lands that have existing local or state requirements for the protection of particular fish or wildlife habitats;
- (9) Any lands that are established by law as shellfish protection areas;
- (10) Any lands determined by the director to have a high potential for drainage and water quality problems, and/or are sensitive to the effects of construction or development.

(Ord. 199 (1996) § 9.20, 1996)

12.28.030 Conflicting information.

In the event of conflict between maps or other available information resources, the final determination of whether or not certain lands are critical drainage areas shall be made by the director. In making such a final determination, the director may use detailed site surveys and/or other topographic data which the director may require the applicant to furnish at the applicant's expense.

(Ord. 199 (1996) § 9.30, 1996)

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KITSAP COUNTY STORMWATER DESIGN MANUAL

Effective Date: April 1, 1997



**Kitsap County Department of Public Works
Stormwater Division**

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STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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October 17, 1996 (360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

Jonathon L. Brand, P.E.
Kitsap County Department of Public Works
614 Division Street (MS-26)
Port Orchard, WA 98366

Dear Mr. Brand:

This is a notification that Kitsap County's proposed Stormwater Management Ordinance and Design Manual, including the latest correction factors for detention systems dated September 10, 1996, have substantially equivalent Technical Standards to those in Ecology's Stormwater Management Manual for the Puget Sound Basin. This is based on a determination by Ecology staff that the proposed Kitsap County Ordinance and Manual provide equal or greater protection of receiving waters or an equal or greater level of treatment as that which would be provided using Ecology's Minimum Requirements.

Ecology commends you and other Kitsap County staff members responsible for preparing the Kitsap County Ordinance and Manual. These documents are a result of many months of review and cooperation by our two staffs. As a result of this effort, we believe that you have prepared well organized comprehensive documents that are consistent with the needs of Kitsap County and the protection of its environment.

We ask that you submit the final documents to Ecology for formal adoption after completion of your public hearing process and adoption by the Kitsap County Board of Commissioners. At that time, we also request that you identify any substantive changes to these documents since September 10, 1996.

Ecology staff will continue working with Kitsap County staff, as needed, to implement its stormwater management program consistent with Ecology's technical design criteria and applicable Water Quality Standards.

Sincerely,

Stanley J. Ciuba, P.E.
Water Quality Program, Stormwater Unit

cc: Ed O'Brien, Water Quality Program
Stormwater Unit
Rod Sakrison, Water Quality Program
Northwest Region

ACKNOWLEDGEMENTS

Kitsap County Board of Commissioners

**Matt Ryan, District 1
Win Granlund, District 2
Phil Best, District 3
John Horsley, Past Commissioner
Billie Eder, Past Commissioner**

Department of Public Works

Randy W. Casteel, P.E., Director/County Engineer

Special Thanks To:

**All of the individuals, agencies and consulting firms who reviewed and
contributed materials to this Manual**

KITSAP COUNTY STORMWATER MANAGEMENT ORDINANCE AND DESIGN MANUAL

Effective Date: April 1, 1997



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Printed on Recycled Paper

Registered Copy # 2595

KITSAP COUNTY STORMWATER MANAGEMENT ORDINANCE

Effective Date: April 1, 1997

RESOLUTION 111-2002 JUNE 10, 2002

RESOLUTION 034-2007 FEBRUARY 12, 2007

RESOLUTION 375-2007 FEBRUARY 12, 2007



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Title 21 LAND USE AND DEVELOPMENT PROCEDURES

Chapter 21.04 LAND USE AND DEVELOPMENT PROCEDURES*

21.04.010 Purpose - Applicability - General process - Administrative Code interpretation.

21.04.010 Purpose - Applicability - General process - Administrative Code interpretation.

A. Purpose and Applicability. The purpose of the ordinance codified in this chapter is to provide timely and predictable procedures and an integrated project review process for applications for development under the following ordinances and chapters of the Kitsap County Code:

1. Subdivisions (Chapters 16.04 through 16.44);
2. Short Subdivisions (Chapter 16.48);
3. Large Lot Subdivisions (Chapter 16.52);
4. Binding Site Plans (Chapter 16.56);
5. Zoning (Title 17);
6. Road Vacations;
7. Critical Areas (Title 19);
8. SEPA (Chapter 18.04);
9. Shorelines (Title 22);
10. Timber Harvest Permits (Chapter 18.16);
11. Storm Water Management (Chapters 12.04 through 12.32); and
12. Concurrency (Chapter 20.04);

B. Conflicts. In the event of conflicts between any provision of this chapter and the ordinances listed in subsection (A) above, the procedures contained in this chapter shall govern.

C. Process. Generally, the process for review of project applications shall consist of the following stages:

1. Preapplication meeting.
2. County summary of requirements for processing.
3. Application.
4. Application type classification by county.
5. County completeness determination(s).
6. County initiation of appropriate public involvement process.
7. Decision by appropriate official or body.
8. Appeal period.

D. Code Interpretations. The director or other county staff shall provide administrative code interpretations of its development regulations to the public as follows:

1. Upon written request directed to the appropriate county official, the official shall provide a formal written interpretation of specific development regulations. Code interpretations shall be provided by the following county officials:

a. Director - Subdivisions, Zoning, SEPA, Shorelines, Forest Practices, Erosion Control, Drainage, Clearing.

b. County Engineer - Road Vacations, Concurrency

c. Kitsap County Building Official - Kitsap County Building Code.

2. Code interpretations are Type I actions, subject to the appeal provisions of this chapter.

(Ord. 290.(2002) § 14, 2002; Ord. 219.(1998) (Exh. 1, § 010), 1998)

21.04.020 Definitions.

A. "Board" or "board of commissioners" means the Kitsap County board of county commissioners.

B. "Closed record appeal" means an administrative appeal on the record to the board of commissioners following an open record hearing on a project permit application on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

C. "Day(s)" means calendar days.

D. "Director" means the director of the Kitsap County department of community development, or the director's designee.

E. "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by Kitsap County to conduct such hearings, that creates Kitsap County's public record through testimony and submission of evidence and information, under procedures prescribed by Kitsap County by ordinance or resolution. On appeal, an open record hearing may only be held only if no open record pre-decision hearing was held on a project permit. All other appeals will be closed record appeals.

F. "Open record pre-decision hearing" means a hearing held prior to Kitsap County's decision on a project permit.

G. "Project permit" or "project permit application" means any land use or environmental permit or license required from Kitsap County for a project action, including, but not limited to, building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, permits or approvals required by critical area ordinances, and site-specific rezones authorized by the Kitsap County Comprehensive Plan (the "Plan") or a subarea plan, but excluding the adoption or amendment of the Plan, a subarea plan, or development regulations except as otherwise specifically included in this chapter.

H. "Public meeting" means an information meeting, hearing, workshop, or other gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to Kitsap County's decision. A public meeting may include a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be, but are not required to be, recorded and a report or recommendation may be included in the Kitsap County project permit application file.

I. "Review authority" means the director, or other county official or their designee, processing and making land use and development decisions.

(Ord. 369 (2006) § 5, 2006; Ord. 219 (1998) (Exh. 1, § 020), 1998)

21.04.030 Type classification of development activities, permits and regulations.

A. Upon presentation, all development applications shall be classified by the county as either Type I, Type II, Type III or Type IV. The classification shall be in accordance with Table 21.04.030 below and shall determine the process, which will govern the review of the application for approval.

B. If this chapter expressly provides that an application is subject to one of the four types of procedures or another procedure, then the application shall be processed accordingly. If this chapter does not expressly provide for review using one of the four types of procedures, and another specific procedure is not required by law, the review authority for the application in question shall classify the application as one of the four procedural types and it will be processed accordingly.

1. The act of classifying an application shall be a Type I action. Classification of an application shall be subject to reconsideration and appeal at the same time and in the same way as the merits of the application in question.

2. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

TABLE 21.04.030

PERMIT/ACTIVITY/DECISION	Review Authority	CLASSIFICATION				
		Exempt	Type I	Type II	Type III	Type IV
Amendments-- Comprehensive Plan (Legislative)	BC					X
Amendments-- Regulations (Legislative)	BC					X
Appeals	HE/BC				X	X
Binding Site Plan	HE				X	
Building Code Interpretation	BO		X			
Building Permit	D	X				
Conditional Use Permit -- Administrative	D			X		
Conditional Use Permit -- Hearing Examiner	HE				X	
Conditional Use Permits -- Minor Revisions	D		X			
Conditional Use Permits -- Vacation	D		X			
Construction Standards, Amendment	BC					X
Critical Areas Variance	HE				X	
Concurrency Certificates	CE		X			
Determination of Zone Boundaries	D		X			
Discretionary Administrative Determinations	D		X			
Development Standard Modifications or Waivers -- Mixed Use Development	D/HE			X	X	
Final Plat	BC			X		
Height Increase -- 10% or less	D			X		
Height Increase -- more than 10%	HE				X	
Landscape Plan Approval	D		X			
Large Lot Subdivision	CE			X		
Master Plan Approval	D/HE			X ¹	X ²	
Master Plan Scoping	D			X		
Plan Interpretations	D		X			
Performance Based Development	HE				X	
Preliminary Plat	HE				X	
Rezone -- With Annual Comprehensive Plan Amendment	BC					X
Rezone -- Authorized by Comprehensive Plan	BC					X
Road Vacation	BC				X	
Rural Wooded Incentive Program -- Preliminary Plat	HE				X	
Rural Wooded Incentive Program -- Release of Subsequent Phases	D			X		
Subdivision	HE				X	
SEPA Threshold Determination	D			X		
Shorelines Substantial Development, Conditional Use, Variance Permit	HE				X	
Short Subdivision	D/HE			X		
Site Development Activity Permit (grading, clearing, drainage)	CE			X		
Temporary Use	D		X			

Timber Harvest Permit	D		X			
Transfer of Development Right – Certification	D		X			
Transfer of Development Right – Permit	D/HE/BC	X	X	X	X	X
Variance	HE				X	
Zoning Interpretations	D		X			
D = Director	CE = County Engineer	BO = Building Official	HE = Hearing Examiner	BC = Board of Commissioners		

1. Approval process for master plans within the South Kitsap Industrial Area (except those for the Industrial Multi-Purpose Recreational Area designation (see Section 17.322.030).
2. Approval process for master plans within the ULID #6 Sub-Area.

(Ord. 369 (2006) § 6, 2006; Ord. 311 (2003) [Attachment 5 [§ 11], 2003; Ord. 290 (2002) § 15, 2002; Ord. 219 (1998) (Exh. 1, § 030), 1998)

21.04.035 Consolidation of project permit applications.

A. The county shall consolidate project permit applications and review in order to integrate the project permit and environmental review process and avoid duplication of the review processes. Consolidated permit processing shall follow the review and approval process of the highest numbered permit type represented among the required permits. For non-legislative actions, Type III is considered the highest and Type I is considered the lowest.

B. The applicant may determine whether the multiple permit applications shall be processed concurrently or independently, except that the director has the discretion to require a variance, height increase, development standards modification or waiver to be processed concurrently with the associated project permit application.

C. For applications that are processed individually, the highest numbered permit type shall be acted upon prior to processing the lower numbered permit type, unless the higher numbered permit type is dependent on first obtaining a favorable Type I or Type II decision.

(Ord. 369 (2006) § 7, 2006)

21.04.040 Preapplication meeting.

A. Predevelopment Meeting. Applicants may request and participate in an informal meeting prior to the formal preapplication meeting, although such predevelopment meetings are not required. The purpose of the meeting is to discuss in general terms the proposed development, application requirements, design standards, design alternatives, other required permits and the approval process.

B. Preapplication Meeting. The purposes of the preapplication meeting and review are:

1. To provide the county with sufficient information about a proposed project to enable county staff to classify the project and inform the applicant of approval requirements;

2. To acquaint the applicant with the requirements of this chapter and other applicable law. County staff shall inform applicants that they should not consider the meeting and review as providing an exhaustive review of all the potential issues that a given application could raise and that applicants should seek independent advice if they have questions or concerns of any kind. Preapplication review shall not prevent the county from applying all relevant laws to the application; and

3. To provide an opportunity for other agency staff and the public to become acquainted with the proposed application and applicable law. Members of the public may attend a preapplication meeting, but it is not a public hearing, and there is no obligation to receive public input.

C. Unless waived by the director, a preapplication meeting is required for Type II or III applications. A preapplication meeting should be waived by the director only if the reviewing authority

determines that the application is relatively simple. A preapplication meeting should be waived by the director only under one of the following conditions:

1. The applicant submits a completed written form provided by the reviewing authority requesting waiver of a preapplication meeting and review. The form shall state that waiver of a preapplication meeting could increase the maximum time for review for complete status and increases the risk that the application will be rejected and that processing could be delayed; or

2. This chapter or the director expressly exempts the application(s) in question from preapplication review.

D. To initiate preapplication review, an applicant shall submit a completed form provided by the reviewing authority for that purpose, the required fee, and all information required by the relevant section(s) of this chapter. Information not provided on the form shall be provided on attachments such as drawings, required checklists or other documents approved by the director. The director may modify requirements for preapplication materials and may conduct a preapplication review with less than all of the required information so long as modification does not prevent the director from identifying all applicable issues and still allows the most effective preapplication review.

E. The director shall designate a staff member who shall coordinate the involvement of county staff responsible for planning, development review, roads, drainage, parks and other subjects, as appropriate, in the preapplication review process. Preapplication review will include discussion of requirements for application completeness, permit or approval requirements, fees, review process and schedule, and responding to questions from the applicant. Responsible staff shall either attend the preapplication meeting or take other steps to fulfill the purposes of preapplication review.

F. The preapplication meeting shall be scheduled at least five days after the notice is mailed but not more than twenty-eight days after the county accepts the application for preapplication review. If the applicant or applicant's representative cannot or does not attend the first scheduled meeting, the county review authority shall reschedule the meeting and give new notice, in which event, the time passing prior to the date the preapplication meeting is held shall not be included in any other time calculation referred to in this chapter.

G. Within twenty-one days after the date of a preapplication meeting, the review authority shall mail to the applicant and to other interested parties a written summary of the preapplication review. Such information will be based upon the level of detail submitted by the applicant with the preapplication request. The preapplication summary shall include a description of the project, all required fees for development permits and project issues regarding critical areas, stormwater, public facilities, roadways and other development limitations.

H. An applicant may submit a written request for a second preapplication meeting within one calendar year after an initial preapplication meeting. There shall be no additional fee for a second meeting if the proposed development is substantially similar to the one reviewed in the first preapplication meeting or if it reflects changes based on information received at the first preapplication meeting.

(Ord. 369 (2006) § 8, 2006: Ord. 219 (1998) (Exh. 1, § 040), 1998)

21.04.045 Submittal requirements.

A. Except as provided elsewhere in this code, the department shall establish and may revise written submittal requirements for each type of project permit application required by this title. The requirements shall clearly describe the material that must be submitted for an application to be considered complete. The department shall provide public notice of changes thirty days prior to their effective date.

B. Submittal requirements shall not be waived, except that the department may determine in writing that a particular requirement is not applicable upon a clear showing by the applicant that the requirement is not relevant to the proposed project permit and is not necessary to demonstrate compliance with the applicable requirements.

C. Additional materials may be required by the department as it determines necessary for review of the application.
(Ord. 369 (2006) § 9, 2006)

21.04.050 Application completeness.

A. The review authority shall determine whether the application is complete upon its submittal according to the following timetable:

1. Within twenty-eight days after the initial submittal; or
2. Within fourteen days after the application has been resubmitted to the county if the

application has been returned to the applicant as being incomplete.

B. Notwithstanding subsection (A) of this section, if the review authority establishes a given day of the week as the day on which to begin review for completeness for a certain kind of application (for example, a subdivision), the time for making a decision regarding the completeness of that kind of application shall begin to run on the day designated by the review authority.

C. The decision determining an application complete and imposition of any requirements for engineering, traffic or other studies shall be based on the criteria set forth in this chapter and implementing measures timely adopted by the review authority. An application is complete if it includes the following:

1. A completed original application form(s) signed by (a) the owner(s) of the property which is the subject of the application; or (b) a representative authorized to do so by written instrument executed by the owner(s) and filed with the application. An application subject to Type IV review may be filed by the director, the planning commission or the board of commissioners without the signature or consent of the property owner(s);

2. A legal description supplied by a title company, surveyor licensed in the state of Washington, or other party approved by the review authority;

3. A current Kitsap County assessor map(s) showing the property(ies) subject to the application;

4. A copy of the preapplication meeting summary, unless waived by the director or not timely prepared as required by subsection (H) of Section 21.04.040;

5. The applicable fee(s) adopted by the board of commissioners for the application(s) in question;

6. All of the information required in the relevant sections of this chapter;

7. Any necessary SEPA document, typewritten or in ink, and signed; and

8. Any additional information identified by the director following the preapplication meeting as necessary to provide the county with sufficient information about the proposed project.

D. If appropriate because of the nature of the site, the proposed development, or other factors, the review authority may waive or modify, in writing with supporting reasons, application requirements that are clearly not necessary to show a proposal complies with relevant criteria and standards of this chapter.

E. Once a project meets the procedural submission requirements, at the sole discretion of the reviewing authority, it may be deemed sufficiently complete for continued processing and a notice of completeness may issue even though additional information is required or project modifications may be undertaken subsequently. In such circumstances, the determination of completeness shall not preclude the reviewing authority from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.

F. If the review authority decides an application is not complete, within the time provided in subsection A of this section, the review authority shall send the applicant a written statement rejecting the application and specify what is required to complete the application, including:

1. A specific date by which the required missing information must be provided to restart the

requirements of Section 21.04.100.

B. The review authority shall mail the applicant a copy of comments timely received in response to the notice together with a statement that the applicant may respond to the comments within fourteen days from the date the comments are mailed. The review authority shall consider the comments and the applicant's reply, so long as timely received. The review authority may consider comments and responses received after the deadline for filing.

C. A decision shall be made within the timelines specified by Section 21.04.110, and 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.

D. Within seven days of the decision, the review authority shall mail a notice of decision to the applicant, the applicant's representative, any known neighborhood association in whose area the property in question is situated, and all parties who have requested such notice regarding the application. The notice of decision shall include the following information:

1. A statement that the decision and SEPA determination are final, but may be appealed as provided in Section 21.04.120 to the Kitsap County hearing examiner within fourteen days after the notice of decision, with the appeal closing date in boldface type. The statement shall describe basic appeal requirements, including applicable fees and the elements of an appeal statement; and
2. A statement that the complete case file, including findings, conclusions and any conditions of approval is available for review. The notice shall list the place, days and times when the case file is available and the name and telephone number of the county representative to contact about reviewing the file.

(Ord. 219 (1998) (Exh. 1, § 070), 1998)

21.04.080 Type III - Quasi-judicial decision.

A. A Type III review process requires one open record public hearing before the hearing examiner. The public hearing must be held within seventy-eight days after the date the review authority issues the determination that the application is complete, and not less than fifteen days following any SEPA threshold determination.

B. At least fifteen days before the date of a hearing for a Type III application, the review authority shall issue a public notice of the hearing in accordance with the requirements in Section 21.04.100.

C. At least seven days before the date of the hearing, the director shall issue a written staff report and recommendation regarding the application(s). The director shall make the staff report and recommendation available for public review and inspection and shall mail a copy without charge to the applicant and applicant's representative. The director shall mail or provide a copy of the staff report at reasonable charge, as determined by the review authority, to all other parties who request it.

D. Public hearings shall be conducted in accordance with applicable rules of procedure, except to the extent waived by the review authority, and recorded on audio or audiovisual tape.

1. At the beginning of a hearing or agenda of hearings, the hearing examiner shall:
 - a. State that testimony will be received only if it is relevant to the applicable approval criteria and development standards and is not unduly repetitious;
 - b. State that the hearing examiner will consider any party's request that the hearing be continued or that the record be kept open for a period of time and may grant or deny that request;
 - c. State that the hearing examiner must be impartial and whether the hearing examiner has had any *ex parte* contact or has any personal or business interest in the application, and provide parties an opportunity to challenge the impartiality of the examiner prior to commencement of the hearing;

- d. State whether the hearing examiner has visited the site;
- e. State that persons who want to receive notice of the decision may sign a list for that purpose at the hearing and where that list is kept; and
- f. Summarize the conduct of the hearing.

2. At the conclusion of the hearing on each application, the hearing examiner shall announce one of the following:

a. That the hearing is continued. If the hearing is continued to a place, date and time certain, additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date and time certain, notice of the continued hearing shall be given as though it was the initial hearing. The hearing examiner shall adopt guidelines for reviewing requests for continuances;

b. That the public record is held open to a date and time certain. The hearing examiner shall state where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the hearing. The hearing examiner may adopt guidelines for reviewing requests to hold open the record;

c. That the application(s) is/are taken under advisement, and a final order will be issued as provided in subsection (F) of this section; or

d. That the application(s) is/are denied, approved or approved with conditions, together with a brief summary of the basis for the decision, and that a final order will be issued as provided in subsection (E) of this section.

E. The hearing examiner shall issue a written decision regarding the application(s) within fourteen days after the date the record closes. The decision shall include:

- 1. A statement of the applicable criteria and standards in this chapter and other applicable law;
- 2. A statement of the facts that the review authority found showed the application does or does not comply with each applicable approval criterion and standards;
- 3. The basis for conclusions to approve, deny or impose conditions; 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 criteria and standards.

F. Within seven days from the date of the decision, the director shall mail the notice of decision to the applicant and applicant's representative, and all parties of record. The mailing shall include a notice which includes the following information:

1. A statement that the decision is final, but may be appealed as provided in Section 21.04.120 to the Kitsap County board of commissioners within fourteen days after the date the notice is mailed.

The appeal closing date shall be listed in boldface type. The statement shall describe how a party must appeal the decision, including the applicable fee and the basic elements of a petition for review; and

2. A statement that the complete case file is available for review, listing the place, days and times where the case file is available and the name and telephone number of the county representative to contact for information about the case.

(Ord. 219 (1998) (Exh. 1, § 080), 1998)

21.04.090 Type IV - Legislative decision.

A. A Type IV procedure may require one or more hearings before the Kitsap County planning commission and does require one or more hearings before the Kitsap County board of commissioners. All Comprehensive Plan amendments shall be considered concurrently and cumulatively, not more than once per year, with the exceptions of the capital facilities element, subarea plans, and shoreline master program.

B. At least fifteen days before the date of the first planning commission hearing for an application subject to Type IV review, the director shall:

- 1. Prepare a notice of application that includes the following information:
 - a. The case file number(s);

- b. A description and map of the area that will be affected by the application, if approved, which is reasonably sufficient to inform the reader of the location;
 - c. A summary of the proposal described in the application(s);
 - d. The place, days and times where information about the application may be examined and the name and telephone number of a county representative to contact about the application;
 - e. A statement that the notice is intended to inform potentially interested parties about the hearing and to invite interested parties to appear orally or by written statement at the hearing;
 - f. Designation of the review authority, the date, time and place of the hearing, and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the review authority;
 - g. A statement that a staff report and, whenever possible, a consolidated SEPA review or integrated growth management document, will be available for inspection at no cost at least fifteen days before the hearing and that a copy will be provided at reasonable cost; and
 - h. A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings;
2. Mail a copy of the notice prepared under subsection (B) of this section to parties who request such notice;
 3. Publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the hearing and a summary of the subject of the Type IV process; and
 4. Provide additional notice deemed appropriate and necessary by the director based on the subject of the Type IV process.
- C. At least seven days before the date of the first hearing on a Type IV application(s), the director shall issue a written staff report and a SEPA evaluation and recommendation regarding the application(s). The director shall make a copy of the staff report and SEPA evaluation available to the public for review and inspection, mail a copy of the consolidated report and recommendation to the review authority, and mail or provide copies at reasonable charge to other parties who request it.
- D. Public hearings shall be conducted in accordance with the rules of procedure as determined by the review authority and except to the extent waived by the review authority. A public hearing shall be recorded on audio or audiovisual tape.
- E. At the conclusion of a planning commission hearing on a Type IV application, the planning commission shall announce one of the following actions, which may not be appealed:
1. That the hearing is continued. If the hearing is continued to a place, date and time certain, then additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date and time certain, then notice of the continued hearing shall be given as though it was the initial hearing before the planning commission; or
 2. That the planning commission recommends against or in favor of approval of the application (s) with or without specified changes, or that the planning commission will recommend neither against nor for approval of the application(s), together with a brief summary of the basis for the recommendation.
- F. At least seven days before the date of the first board of commissioners hearing for an application subject to Type IV review, the director shall:
1. Prepare a notice that includes the information listed in subsection (B)(1) of this section except the notice may be modified as needed to:
 - a. Reflect any changes made in the application(s) during the planning commission review;
 - b. Reflect that the board of commissioners will conduct the hearing and the place, date and time of the board of commissioners hearing; or
 - c. State that the planning commission recommendation, staff report, and SEPA evaluation are available for inspection at no cost and copies will be provided at reasonable cost;
 2. Mail a copy of that notice to the parties identified in subsection (B)(2) of this section and to parties who request it in writing;
 3. Publish in a newspaper of general circulation a summary of the notice, including the date,

time and place of the hearing and a summary of the subject of the Type IV process; and

4. Provide additional notice deemed appropriate and necessary by the director based on the subject of the Type IV process.

G. At the conclusion of its hearing regarding a Type IV application, the board of commissioners may continue the hearing or may adopt, modify or give further consideration to the application or recommendations. If the hearing is continued to a place, date and time certain, then additional notice of the continued hearing is not required to be provided. If the hearing is not continued to a place, date and time certain, then notice of the continued hearing shall be given as though it was the initial hearing before the board of commissioners.

(Ord. 219 (1998) (Exh. 1, § 090), 1998)

21.04.100 Public notice.

A. Notices of Application. A notice of the application shall include the following information, to the extent known.

1. The case file number(s), the date of application(s), the date the application(s) was deemed complete, and the date of the notice of completeness;

2. A description of the proposal with a list of any project permit requests included with the application(s) and, if applicable, a list of any further studies required by the review authority;

3. Identification of other necessary permits not included in the application, to the extent known by county staff;

4. Identification of existing environmental documents evaluating the proposal;

5. Specific dates for the public comment period, a statement that the public has the right to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made. The statement shall describe any appeal rights and make it clear that only written comments received by the county within fifteen days from the date of the notice will be considered;

6. The deadline for submitting a SEPA appeal;

7. The date, time, place and type of hearing, if applicable, provided that any necessary threshold determination has been made under SEPA. If a necessary threshold determination has not yet been made at the time the notice of application is sent, the hearing date shall be set later, for a date no sooner than fifteen days following the SEPA determination, and a separate notice of hearing shall be mailed to the applicant, the applicant's representative and all other parties who have requested such notice;

8. If one has been made, a statement of the preliminary determination of what development regulations will be used for project mitigation. The statement shall indicate which regulations the application appears to comply with;

9. A statement that a consolidated staff report and, if applicable, that the SEPA review document will be available for inspection at no cost at least fifteen days before the administrative decision or public hearing;

10. The deadline for submitting written comments;

11. The name of the applicant or applicant's representative and the name, address and telephone number of the contact person for the applicant, if any;

12. A description of the site which is reasonably sufficient to inform the reader of its location and zoning, including current zoning designation and the nearest road intersections;

13. The date, place and times where information about the application may be examined and the name and telephone number of the county representative to contact about the application;

14. The designation of the review authority, and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the review authority; and

15. Any additional information determined appropriate by the reviewing authority.

B. Separate Notice of Public Hearing. For Type III applications, where the notice of application under subsection (A) does not include a notice of hearing, a separate notice of the hearing date shall be distributed in accordance with subsection (C) of this section.

C. Distribution of Notices.

1. Within the time period specified for public notice of applications in this chapter, the director shall mail a copy of notices of application and hearings to:

- a. The applicant and the applicant's representative;
- b. Any neighborhood association known to the director and in whose area the property in question is situated;
- c. Owners of property within a radius of four hundred feet of the property which is the subject of the application:

(i) The records of the Kitsap County assessor shall be used to determine the property owner of record. The failure of a property owner to receive notice shall not affect the decision if the notice was sent in accordance with this subsection. A sworn certificate of mailing executed by the person who did the mailing shall be evidence that notice was properly mailed to parties listed or referenced in the certificate; and

(ii) If the applicant owns property adjoining or across a right-of-way or easement from the property that is the subject of the application, notice shall be mailed to owners of property within a four-hundred-foot radius, as provided in this subsection, of the edge of the property owned by the applicant adjoining or across a right-of-way or easement from the property that is the subject of the application;

- d. Agencies with jurisdiction; and
- e. Other people who request such notice in writing.

2. For Type III review, the county shall publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the hearing, the nature and location of the proposal and instructions for obtaining further information.

3. For Type III review, the county shall post the notice in a conspicuous place visible to the public at least fifteen days before the hearing. The applicant shall remove and properly dispose of the notices within seven days after the hearing.

a. The notice shall state the date, time and place of the hearing; the nature and location of the proposal and instructions for obtaining further information.

b. At least two days before the hearing, the responsible county staff member shall execute and submit an affidavit to the review authority certifying where and when the notices were posted.

(Ord. 219_(1998) (Exh. 1, § 100), 1998)

21.04.105 Integration of SEPA review with project permit review.

A. Project permit applications and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in Chapter 18.04 of this code and WAC 197-11.

B. SEPA and the review of project permit applications shall be combined and integrated in all project permits that are not categorically exempt from SEPA or for which environmental review has not already been completed in the following manner:

1. SEPA review, if required, should be analyzed in one project permit review process that includes land use, environmental, public and governmental review as established by this chapter. If applicable development regulations already require studies that adequately analyze a project's specific probable adverse impacts, then additional or redundant studies shall not be required under SEPA.

2. Documents or studies prepared in the project permit review process under the requirements of SEPA or specific development regulations shall be prepared so that they can be reviewed by the public, the county and other agencies during the applicable comment periods.

3. A SEPA threshold determination and/or a scoping notice may be issued with a Notice of Application, provided that, a final threshold determination of nonsignificance may not be issued until after the expiration of the public comment period on the Notice of Application unless the requirements of the optional DNS process (WAC 197-11-355 and Section 18.04.120 of this code) are followed. A final determination of significance and a SEPA scoping notice may be issued with the Notice of

Application and prior to the expiration of the public comment period on the Notice of Application.

4. Any appeal of a determination of significance as described in Section 18.04.210(1)(c) may proceed in advance of any hearings or appeals of the underlying project permit application. (Ord. 369 (2006) § 12, 2006)

21.04.110 Timelines and duration of approval.

A. Decisions. Decisions on Type I, II, and III applications shall be issued not more than seventy-eight days after the date of the determination of completeness.

1. If a determination of significance (DS) is issued, the decision shall not issue sooner than seven days after a final environmental impact statement is issued.

2. An applicant may agree in writing to extend the time in which the review authority shall issue a decision. The review authority may consider new evidence the applicant introduces with or after such a written request.

3. If the county determines that the information submitted by the applicant under subsection (C) of Section 21.04.050 is insufficient, it shall notify the applicant of the deficiencies and the procedures under Section 21.04.050 shall apply as if a new request for studies had been made.

4. In determining the number of days that have elapsed after Kitsap County has notified the applicant that the application is complete, the following periods shall be excluded:

a. Any period during which the applicant has been required by the county to correct plans, perform studies, or provide additional information. The period shall be calculated from the date the county notifies the applicant of the need for additional information to the earlier of either: (1) the date the county determines whether the additional information provided satisfies the request for information; or (2) fourteen days after the date the information has been provided to the county;

b. Any period of time during which an environmental impact statement is being prepared, which shall not exceed one year from the issuance of the determination of significance unless the county and applicant have otherwise agreed in writing to a longer period of time. If no mutual written agreement is completed, then the application shall become null and void after the one-year period unless the director determines that delay in completion is due to factors beyond the control of the applicant;

c. Any period during which the applicant has requested additional time to supplement the application or has otherwise requested that processing be delayed; and

d. Any period during which the application has been postponed at the request of the applicant in accordance with subsection (J) of Section 21.04.050.

B. Duration of Development Approval. Preliminary approval of land divisions, site plan review, approval of uses permitted subject to director review, approval of conditional use permits, approval of performance based developments, and approval of variances, shall be valid for a period of three years after approval, during which time a complete application for final plat approval (in the case of preliminary land division approval) or a building permit (for all other listed approvals) meeting all the legal requirements and conditions of approval shall be made.

C. Extensions - Phased Developments.

1. Applications specifically approved for phased development may receive one two-year extension in accordance with the criteria below, so long as at least one phase was finally approved within two years prior to each such subsequent extension request. Subsequent extensions will be subject to a Type III process.

a. An extension request must be filed in writing with the director at least thirty days prior to the expiration of the approval period or any subsequent approved extension.

b. The applicant must demonstrate to the director tangible progress toward the next phase of the application.

c. The applicant must demonstrate to the director that there are no significant changes in conditions which would render approval of the extension contrary to the public health, safety or general welfare.

2. The director may take either of the following actions upon receipt of a timely extension request:
 - a. Approve the extension if no significant issues are presented under the criteria set forth in this section;
 - b. Conditionally approve the extension if any significant issues presented are substantially mitigated by minor revisions to the original approval; or
 - c. Deny the extension if any significant issues presented cannot be substantially mitigated by minor revisions to the approved plan.
3. A request for extension shall be processed as a Type I action. Appeal and post-decision review of a Type I action is permitted as provided in this chapter.
 - D. Developer Agreements. Notwithstanding the foregoing, the board may approve a developer agreement under RCW 36.70B.170 *et seq.*, providing for a longer approval duration. The hearing examiner is delegated authority to conduct hearings and make recommendations for developer agreements, but final approval thereof is reserved to the board.
(Ord. 219 (1998) (Exh. 1, § 110), 1998)

21.04.120 Appeals.

- A. Final decisions regarding applications (including preliminary short and long plats) subject to a Type I, II or III procedure may be appealed only if, within fourteen days after written notice of the decision is mailed, a written appeal of the decision is filed with the following bodies:
 1. Type I or Type II - Director.
 2. Type III - Board of commissioners.
- B. If state or county rules are adopted pursuant to Chapter 43.21C RCW which allow public comment on a determination of nonsignificance issued as part of an appealable project permit decision, the appeal period shall be extended for an additional seven days.
- C. The appeal shall contain the following information:
 1. The case number designated by the county and the name of the applicant;
 2. The name and signature of each appellant. If multiple parties file a single appeal, the appeal document shall designate one party as the contact representative for all contact with the director. All contact with the director regarding the appeal, including notice, shall be with this contact representative;
 3. The specific aspect(s) of the decision and/or SEPA determination being appealed, the reasons why each is in error as a matter of fact or law, and the evidence relied upon to prove the error; and
 4. The appeal fee adopted by the board of commissioners.
- D. The hearing examiner shall hear appeals of Type I and II decisions in a *de novo* hearing. Notice of an appeal hearing shall be mailed to parties entitled to notice of the decision, but need not be posted or published. A staff report shall be prepared, a hearing shall be conducted, and a decision shall be made and noticed and can be appealed as for a Type III process.
- E. The board of commissioners shall hear appeals of Type III decisions on the established record, including all materials received in evidence at any previous stage of the review, an audio or audio/visual tape of the prior hearing(s) or transcript of the hearing(s), the final order being appealed, and argument by the parties.
 1. Board of commissioners' consideration of an appeal shall be noticed as provided for in subsection (C) of Section 21.04.100. The board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If so continued, the board shall:
 - a. Designate the parties or their representatives to present argument, and the permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the board; and
 - b. At least fifteen days before such hearing, provide notice to all parties entitled under this chapter to such notice. The notice shall indicate that the limited hearing is not a new public hearing and that only legal argument from designated parties will be heard.
 2. At the conclusion of a closed record appeal hearing, the board of commissioners may affirm,

reverse, modify or remand an appealed decision.

a. A decision to remand a matter is not appealable. Appeal from a new staff decision made on remand shall be treated as any other decision.

b. If the board affirms an appealed decision, the board shall adopt a final order that contains the conclusions the board reached regarding the specific grounds for appeal and the reasons for those conclusions. The board may adopt the decision of the lower review authority as its decision to the extent that the decision addresses the merits of the appeal or the board may alter that decision.

c. If the board reverses or modifies an appealed decision, the board shall adopt a final order that contains:

(i) A statement of the applicable criteria and standards in this chapter and other applicable law relevant to the appeal;

(ii) A statement of the facts that the board finds which show that the appealed decision does not comply with applicable approval criteria or development standards;

(iii) The reasons for a conclusion to modify or reverse the decision; and

(iv) The decision to modify or reverse the appealed decision and, if approved, any conditions of approval necessary to ensure that the proposed development will comply with applicable criteria and standards.

3. The board of commissioners' office shall mail notice of a board of commissioners' decision on the merits of an appeal to parties entitled to notice as provided in this chapter and other parties who appeared orally or in writing before the board regarding the appeal. The notice shall include identification of the case by number, the applicant's name and a summary of the board's decision. The notice shall also include a statement that the board's decision can be appealed to Superior Court within twenty-one days and, where applicable, shall comply with the official notice provisions of RCW 43.21C.075.

(Ord. 219 (1998) (Exh. 1, § 120), 1998)

**Chapter 21.06
DEVELOPMENT PERMIT FEE SCHEDULE**

Sections:

21.06.100 Kitsap County Development Permit Fee Schedule.

21.06.100 Kitsap County Development Permit Fee Schedule.

The fee set forth in Table 21.06.100 shall accompany all applications for those permits listed in Table 21.06.100. Review shall not commence on any application until all applicable fees have been paid in full. Failure to pay the applicable fees is grounds for denial of the application.

Table 21.06.100

KITSAP COUNTY DEVELOPMENT PERMIT FEE SCHEDULE

ASSESSOR

Open Space/Current Use Assessment Application Fee.....\$ 250.00

- Application for Classification as
Open Space Land for Current Use Assessment
- Application for Classification as
Farm and Agricultural Land for Current Use Assessment
- Application for Classification as
Timber Land for Current Use Assessment

**Chapter 17.110
DEFINITIONS ***

Sections:

<u>17.110.005</u>	Generally.
<u>17.110.010</u>	Abutting.
<u>17.110.015</u>	Access.
<u>17.110.020</u>	Accessory dwelling unit.
<u>17.110.025</u>	Accessory living quarters.
<u>17.110.030</u>	Accessory use or structure.
<u>17.110.035</u>	Adjacent.
<u>17.110.040</u>	Adjoining.
<u>17.110.045</u>	Adult family home.
<u>17.110.050</u>	Agricultural uses.
<u>17.110.055</u>	Alley.
<u>17.110.057</u>	Alternative technology.
<u>17.110.060</u>	Animal.
<u>17.110.065</u>	Animal, small.
<u>17.110.070</u>	Animal hospital.
<u>17.110.075</u>	Amusement center.
<u>17.110.085</u>	Aquaculture practices.
<u>17.110.087</u>	Assembly and packaging operations.
<u>17.110.090</u>	Automobile repair.
<u>17.110.095</u>	Automobile service station.
<u>17.110.100</u>	Awning.
<u>17.110.103</u>	(Repealed)
<u>17.110.105</u>	Bed and breakfast house.
<u>17.110.110</u>	Board.
<u>17.110.120</u>	Boat yard.
<u>17.110.125</u>	Breezeway.
<u>17.110.126</u>	Brew pubs.
<u>17.110.130</u>	Buffer.
<u>17.110.132</u>	Buffer, landscaping.
<u>17.110.133</u>	Buffer, screening.
<u>17.110.135</u>	Building.
<u>17.110.140</u>	Building height.
<u>17.110.145</u>	Building line.
<u>17.110.150</u>	Caretaker's dwelling.
<u>17.110.155</u>	Carport.
<u>17.110.157</u>	Child care center.
<u>17.110.160</u>	Clinic.
<u>17.110.165</u>	Club.
<u>17.110.168</u>	Co-location.
<u>17.110.170</u>	Commission or planning commission.
<u>17.110.171</u>	Comprehensive plan.
<u>17.110.175</u>	Conditional use.
<u>17.110.177</u>	Conference center.
<u>17.110.180</u>	Congregate care facility.
<u>17.110.185</u>	Contiguous.
<u>17.110.190</u>	Convalescent, nursing or rest home.
<u>17.110.195</u>	Contractor's storage yard.
<u>17.110.196</u>	Cottage housing development.
<u>17.110.197</u>	County engineer.
<u>17.110.199</u>	Custom art and craft stores.
<u>17.110.200</u>	Day-care center.

** Excluding any additions
or changes by Ord 415-2008,
which was adopted Nov 10, 2008,
& after the vesting date of
March 28, 2008.*

<u>17.110.205</u>	Day-care center, family.
<u>17.110.210</u>	Density.
<u>17.110.212</u>	Density, maximum.
<u>17.110.213</u>	Density, minimum.
<u>17.110.215</u>	Department.
<u>17.110.220</u>	Development.
<u>17.110.222</u>	Development rights.
<u>17.110.223</u>	Directional panel antenna.
<u>17.110.225</u>	Director.
<u>17.110.226</u>	Drinking establishments.
<u>17.110.230</u>	(Repealed)
<u>17.110.240</u>	Dwelling, single-family attached.
<u>17.110.242</u>	Dwelling, single-family detached.
<u>17.110.245</u>	Dwelling, duplex.
<u>17.110.250</u>	Dwelling, multiple-family.
<u>17.110.255</u>	Dwelling unit.
<u>17.110.257</u>	Emergency service communications.
<u>17.110.260</u>	Employees.
<u>17.110.265</u>	Exotic animal.
<u>17.110.270</u>	Family.
<u>17.110.275</u>	Fence, sight-obscuring.
<u>17.110.280</u>	Forestry.
<u>17.110.285</u>	Foster home.
<u>17.110.290</u>	Frontage.
<u>17.110.295</u>	Garage, private.
<u>17.110.301</u>	General merchandise stores.
<u>17.110.302</u>	General office and management services.
<u>17.110.303</u>	Golf course.
<u>17.110.305</u>	Grade.
<u>17.110.315</u>	Gross floor area.
<u>17.110.317</u>	Guest house.
<u>17.110.319</u>	Habitable area.
<u>17.110.320</u>	Habitable floor.
<u>17.110.325</u>	Hearing examiner.
<u>17.110.330</u>	Heavy equipment.
<u>17.110.340</u>	(Repealed)
<u>17.110.345</u>	Home business.
<u>17.110.350</u>	Home day care.
<u>17.110.355</u>	Home owners' association.
<u>17.110.360</u>	Hospital.
<u>17.110.365</u>	Hotel/motel.
<u>17.110.366</u>	Immediate vicinity.
<u>17.110.367</u>	Impervious surface.
<u>17.110.368</u>	Infill development.
<u>17.110.369</u>	Junk motor vehicle.
<u>17.110.370</u>	Junk yard.
<u>17.110.375</u>	Kennel.
<u>17.110.380</u>	Kennel, hobby.
<u>17.110.390</u>	Landscaping.
<u>17.110.393</u>	Lattice support structure.
<u>17.110.395</u>	Livestock.
<u>17.110.396</u>	Loading space.
<u>17.110.400</u>	Lot.
<u>17.110.405</u>	Lot area.
<u>17.110.410</u>	Lot, corner.
<u>17.110.412</u>	Lot, interior
<u>17.110.415</u>	Lot coverage.

<u>17.110.420</u>	Lot depth.
<u>17.110.425</u>	(Repealed)
<u>17.110.430</u>	Lot line.
<u>17.110.435</u>	Lot line, front.
<u>17.110.440</u>	Lot line, rear.
<u>17.110.445</u>	Lot line, side.
<u>17.110.450</u>	Lot of record.
<u>17.110.455</u>	Lot, through.
<u>17.110.460</u>	Lot width.
<u>17.110.462</u>	Macro antenna array.
<u>17.110.465</u>	Maintain.
<u>17.110.470</u>	Manufactured home.
<u>17.110.473</u>	Manufacturing and fabrication.
<u>17.110.475</u>	Marina.
<u>17.110.477</u>	Master plan.
<u>17.110.480</u>	Micro antenna array.
<u>17.110.483</u>	Mini antenna array.
<u>17.110.485</u>	Mixed use development.
<u>17.110.490</u>	Mobile home.
<u>17.110.493</u>	Mobile home park.
<u>17.110.503</u>	Mono-pole.
<u>17.110.504</u>	Movie/performance theater.
<u>17.110.506</u>	Net developable area.
<u>17.110.508</u>	Nonconforming lot.
<u>17.110.510</u>	Nonconforming use or structure.
<u>17.110.515</u>	Nuisance.
<u>17.110.520</u>	Nursery, retail.
<u>17.110.525</u>	Nursery, wholesale.
<u>17.110.530</u>	Nursing or rest home.
<u>17.110.535</u>	Open space.
<u>17.110.540</u>	Ordinary high water mark.
<u>17.110.545</u>	Owner.
<u>17.110.547</u>	Parabolic antenna.
<u>17.110.548</u>	Parcel.
<u>17.110.550</u>	Park.
<u>17.110.555</u>	Parking area, public.
<u>17.110.560</u>	Parking space.
<u>17.110.565</u>	Parking space, barrier free.
<u>17.110.570</u>	Parking space, compact.
<u>17.110.572</u>	Performance based development (PBD).
<u>17.110.575</u>	Perimeter setback.
<u>17.110.576</u>	Permitted use.
<u>17.110.580</u>	Person.
<u>17.110.585</u>	Pet.
<u>17.110.590</u>	Pet, non-traditional.
<u>17.110.591</u>	Pharmacies.
<u>17.110.595</u>	Pier.
<u>17.110.600</u>	Places of worship.
<u>17.110.605</u>	(Repealed)
<u>17.110.610</u>	Planning commission.
<u>17.110.615</u>	Porch.
<u>17.110.620</u>	Portable sign.
<u>17.110.625</u>	Premises.
<u>17.110.630</u>	Private airport or heliport.
<u>17.110.635</u>	Prohibited use.
<u>17.110.637</u>	Project permit or project permit application.
<u>17.110.640</u>	Public facilities.

<u>17.110.642</u>	Race track, major.
<u>17.110.643</u>	Race track, minor.
<u>17.110.645</u>	Receiving areas and parcels.
<u>17.110.646</u>	Recreational amenity, active.
<u>17.110.647</u>	Recreational facility.
<u>17.110.650</u>	Recreational vehicle.
<u>17.110.655</u>	Recreational vehicle camping park.
<u>17.110.660</u>	Residential care facility.
<u>17.110.662</u>	Restaurant.
<u>17.110.663</u>	Restaurant, high-turnover.
<u>17.110.665</u>	Rezone.
<u>17.110.666</u>	Rural character.
<u>17.110.667</u>	Rural cluster.
<u>17.110.668</u>	Rural Wooded Incentive Program development.
<u>17.110.669</u>	Sending areas and parcels.
<u>17.110.670</u>	Setback.
<u>17.110.673</u>	Shipping container.
<u>17.110.674</u>	(Repealed)
<u>17.110.675</u>	Sign.
<u>17.110.680</u>	Sign permit.
<u>17.110.683</u>	Site.
<u>17.110.685</u>	Site plan.
<u>17.110.686</u>	Site-specific amendment.
<u>17.110.687</u>	Stealth technology.
<u>17.110.688</u>	Storage, hazardous materials.
<u>17.110.689</u>	Storage, self-service.
<u>17.110.690</u>	Storage, vehicles and equipment.
<u>17.110.691</u>	Storage, indoor.
<u>17.110.692</u>	Storage, outdoor.
<u>17.110.693</u>	Storage container.
<u>17.110.695</u>	Street.
<u>17.110.700</u>	Structural alteration.
<u>17.110.705</u>	Structure.
<u>17.110.706</u>	Sub-area plan.
<u>17.110.707</u>	Support structure.
<u>17.110.710</u>	Temporary sign.
<u>17.110.715</u>	Temporary structure.
<u>17.110.720</u>	Temporary use.
<u>17.110.725</u>	Tract.
<u>17.110.730</u>	Use.
<u>17.110.735</u>	(Repealed)
<u>17.110.740</u>	Veterinary clinic.
<u>17.110.745</u>	Water-dependent use.
<u>17.110.750</u>	Water-enjoyment use.
<u>17.110.755</u>	Water-oriented use.
<u>17.110.760</u>	Water-related use.
<u>17.110.765</u>	Wireless communication antenna array.
<u>17.110.770</u>	Wireless communication facility.
<u>17.110.775</u>	Wireless communication support structure.
<u>17.110.780</u>	Whip antenna.
<u>17.110.782</u>	(Repealed)
<u>17.110.783</u>	Wrecking yard.
<u>17.110.785</u>	Yard.
<u>17.110.790</u>	Yard, front.
<u>17.110.795</u>	Yard, rear.
<u>17.110.800</u>	Yard, side.
<u>17.110.805</u>	Zone.

17.110.005 Generally.

Except as provided in Section 17.450.010, for the purpose of this title, certain terms, phrases, words and their derivatives shall be construed as specified in this section and elsewhere in this title where specific definitions are provided. Terms, phrases and words used in the singular include the plural and the plural the singular. Terms, phrases and words used in the masculine gender include the feminine and the feminine the masculine. The word "shall" is mandatory. The word "may" is discretionary. Where terms, phrases and words are not defined, they shall have their ordinary accepted meanings within the context with which they are used. The most current version of the English Webster's Dictionary shall be considered as providing ordinary accepted meanings.

(Ord. 415 (2008) § 11, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.010 Abutting.

"Abutting" means adjoining with a common boundary line; except that where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting unless the common property line between the two parcels measures ten feet or greater in a single direction. Where two or more lots are separated by a street or other public right-of-way, they shall be considered "abutting" if their boundary lines would be considered abutting if not for the separation provided by the street or right-of-way.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.015 Access.

"Access" means the place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use, as required by this title.

(Ord. 415 (2008) § 12, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.020 Accessory dwelling unit.

"Accessory dwelling unit" means separate living quarters detached from the primary residence. No mobile home or recreational vehicle shall be considered an accessory dwelling unit. This definition excludes guest houses.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.025 Accessory living quarters.

"Accessory living quarters" means separate living quarters contained within the primary residence.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.030 Accessory use or structure.

"Accessory use or structure" means an activity or structure that is commonly associated with but subordinate to any principal use or structure.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.035 Adjacent.

"Adjacent" means the same as "abutting."

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.040 Adjoining.

"Adjoining" means the same as "abutting."

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.045 Adult family home.

"Adult family home" means a dwelling licensed pursuant to RCW 70.128 in which a person or persons provide personal care, special care, and room and board.

(Ord. 415 (2008) § 13, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.050 Agricultural uses.

"Agricultural uses" means the use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, wholesale nurseries, floriculture, viticulture and wineries, apiaries, and animal and poultry husbandry, and the necessary accessory uses; provided, however, that the operation of any such accessory use shall be incidental to that of normal agriculture activities, and

provided further, that the above uses shall not include slaughter houses and meat packing or commercial feed-lots.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.055 Alley.

“Alley” means a private or public right-of-way having a typical width of at least ten feet, but generally no more than twenty feet, which affords only secondary means of access to abutting properties. Alleys are not intended for general traffic circulation.

(Ord. 415 (2008) § 14, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.057 Alternative technology.

“Alternative technology” means the use of structures, fixtures, and technology which substantially limit the visibility of wireless communication support structures and facilities. This may include, but is not limited to, use of existing utility poles, flagpoles, existing structures such as water tanks, church steeples and any other method which substantially minimizes the visual impact of wireless communication support structures and facilities. This is commonly referred to as “stealth technology.”

(Ord. 367 (2006) § 5 (part), 2006: Ord. 281-2002 § 1, 2002)

17.110.060 Animal.

“Animal” means any live vertebrate creature, reptile, amphibian or bird, except man.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.065 Animal, small.

“Animal, small” or “small animal” means any animal other than livestock used for agricultural purposes.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.070 Animal hospital.

“Animal hospital” means a place where animals or pets are given medical or surgical treatment, and are cared for during the time of such treatment.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.075 Amusement center.

“Amusement center” means a commercially operated facility having one or more forms of entertainment such as a bowling alley, indoor golf driving range, merry-go-round, roller coaster, batting cages, electronic and/or video games, or miniature golf course.

(Ord. 415 (2008) § 15, 2008: Ord. 367 (2006) § 5 (part), 2006)

17.110.085 Aquaculture practices.

“Aquaculture practices” means the harvest, culture or farming of cultivated food fish, shellfish or other aquatic plants and animals and includes fisheries enhancement, the mechanical harvesting of shellfish and hatchery culture, excluding traditional noncommercial shellfish harvesting.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.087 Assembly and packaging operations.

“Assembly and packaging operations” means a facility where pre-manufactured components are assembled to construct a product. Products may be packaged and moved off site for wholesale or retail sale. This may include, but is not limited to, assembly and packaging of computer, electronics, office equipment, fabricated metal products, and other products.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.090 Automobile repair.

“Automobile repair” means replacement of parts, motor service, rebuilding or reconditioning of engines, painting, upholstering, detailing, or cleaning motor vehicles, recreational vehicles or trailers.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.095 Automobile service station.

“Automobile service station” means a building or lot having dispensers and storage tanks where fuels or oils for motor vehicles are dispensed, sold, or offered for sale. Service stations may include accessory convenience stores and minor automobile services, including car washes.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.100 Awning.

“Awning” or “canopy” means a temporary or movable shelter (awning), or a fixed rigid shelter (canopy) supported entirely by the exterior wall of the building and generally extending over a pedestrian walkway. When used in conjunction with signs, only that portion of the awning or canopy that is actually used as a sign shall be included in sign area calculations. Lighting of the awning or canopy, whether directly, indirectly, or by back-lighting, shall have no effect on the sign requirements, unless lighted signs are specifically prohibited in that area or zone.
(Ord. 415 (2008) § 16, 2008)

17.110.103 (Repealed)*

* **Editor’s Note:** Former Section 17.110.103, “Barrier buffer,” was repealed by § 17 of Ord. 415 (2008). Section 5 (part) of Ord. 367 (2006) and § 4 (part) of Ord. 216 (1998) were formerly codified in this section.

17.110.105 Bed and breakfast house.

“Bed and breakfast house” means a dwelling or separate structure which is used by the owner or primary resident to provide overnight guest lodging for compensation including not more than ten guest rooms and which usually provides a morning meal as part of the room rate structure.
(Ord. 415 (2008) § 18, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 281-2002 § 2, 2002: Ord. 216 (1998) § 4 (part), 1998)

17.110.110 Board.

“Board” means the Kitsap County board of county commissioners or their assigns.
(Ord. 415 (2008) § 19, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.120 Boat yard.

“Boat yard” means a place where boats are constructed, dismantled, stored, serviced, or repaired, including maintenance work thereon and may include such facilities as a marine railway, dry-dock or tidal grid.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.125 Breezeway.

“Breezeway” means a structure for the principal purpose of connecting the main building or buildings on a property with other main buildings or accessory buildings.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.126 Brew pubs.

“Brew pubs” shall mean a combination of retail, wholesale and manufacturing business that brews and serves beer and/or food on the premises.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.110.130 Buffer.

“Buffer” or “buffering” means space, either landscaped or in a natural state, intended and dedicated by easement or condition of approval to separate uses that may or may not conflict with each other and to reduce visual, noise, odors and other impacts.
(Ord. 415 (2008) § 20, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.132 Buffer, landscaping.

“Buffer, landscaping” means a buffer treatment within or along the perimeter of a development which varies in numbers and types of vegetation and/or fencing depending on land uses. Trees, shrubs, ground covers and/or fencing are to be provided as prescribed by Chapter 17.385.

(Ord. 415 (2008) § 21, 2008)

17.110.133 Buffer, screening.

“Buffer, screening” means a buffer of evergreen vegetation and/or site-obscuring fencing intended to provide functional screening between different uses, land use intensities and/or zones installed or maintained as prescribed by Chapter 17.385.

(Ord. 415 (2008) § 22, 2008)

17.110.135 Building.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.140 Building height.

“Building height” is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.145 Building line.

“Building line” means the perimeter of that portion of a building or structure nearest a property line but excluding eaves, open space, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.150 Caretaker’s dwelling.

“Caretaker’s dwelling” means a single-family residence accessory to a commercial or industrial use intended for the purposes of providing supervision, maintenance or security of the property.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.155 Carport.

“Carport” means a roof designed to cover, but not enclose, automobile parking spaces and should be open on two or more sides.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.157 Child care center.

“Child care center” means the same as “day-care center.”

(Ord. 367 (2006) § 5 (part), 2006)

17.110.160 Clinic.

“Clinic” means a building or portion of a building containing offices for providing non-emergency chiropractic, medical, dental, or psychiatric services not involving overnight housing of patients.

(Ord. 419 (2008) § 2, 2008; Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.165 Club.

“Club” means a place where an association of persons organized for some common purpose meet. This definition excludes places of worship and groups organized primarily for business purposes.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.168 Co-location.

“Co-location” means the use of a single support structure by more than one wireless services provider where appropriate, and/or placement of up to four support structures for co-location on a specific site.

This may include shared facilities with Kitsap County central communications or public safety emergency communications equipment.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.170 Commission or planning commission.

“Commission” or “planning commission” means the Kitsap County planning commission.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.171 Comprehensive plan.

“Comprehensive plan” means the principals, objectives, and policies to guide growth and development, as required under Chapter 36.70A RCW. The Kitsap County Comprehensive Plan coordinates and provides policy direction for county programs and services, and establishes urban/rural boundaries.

(Ord. 415 (2008) § 23, 2008)

17.110.175 Conditional use.

“Conditional use” means an activity specified by this title as a principal or an accessory use that may be approved or denied based upon consistency with specific criteria (Chapters 17.420 and/or 17.421). Approval of a conditional use is subject to certain conditions. Conditional uses reviewed by the planning department are administrative (ACUP); those reviewed by the hearing examiner (C) require a public hearing.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.177 Conference center.

“Conference center” means a building or group of buildings with overnight accommodations and meeting space, primarily intended for conferences, meetings, and retreats. Conference centers may include facilities such as dining and banquet rooms, recreation rooms and other amenities.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.180 Congregate care facility.

“Congregate care facility” means any building in which people live in individual housing units which provide for independent living while providing common living areas and limited services such as health care, meals and housekeeping.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.185 Contiguous.

“Contiguous” means the same as “abutting.”

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.190 Convalescent, nursing or rest home.

“Convalescent, nursing or rest home” means any building or premises in or on which sick, injured, or infirm persons are housed, for a period in excess of twenty-four consecutive hours and furnished with meals and nursing care for hire.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.195 Contractor’s storage yard.

“Contractor’s storage yard” means a place where heavy equipment, vehicles, construction equipment or any material commonly used in the erection of any structure, is stored or accumulated. Sites that involve current construction of projects with active permits involving the materials on site shall not be considered a contractor’s storage yard.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.196 Cottage housing development.

“Cottage housing development” means a tract of land under single ownership or unified control developed with four or more detached dwelling units sharing a commonly owned courtyard/common area and parking area. Cottage housing development may or may not be condominiums.

(Ord. 415 (2008) § 24, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.110.197 County engineer.

“County engineer” means the director of the department of public works or a duly authorized designee as defined in RCW 36.75.010.

(Ord. 415 (2008) § 25, 2008)

17.110.199 Custom art and craft stores.

“Custom art and craft stores” shall mean a business in which finished, personal or household items are produced and/or sold. Examples include, but are not limited to: pottery and candle making; leather work; jewelry making; creation of sculpture or other artwork.

(Ord. 415 (2008) § 26, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003. Formerly 17.110.197)

17.110.200 Day-care center.

“Day-care center” means a primary dwelling in which more than seven individuals, or a building other than a primary dwelling in which any number of individuals, are cared for during some portion of a twenty-four-hour period.

(Ord. 415 (2008) § 27, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.205 Day-care center, family.

“Day-care center, family” means an owner- or manager-occupied primary dwelling and premises in and on which not more than six individuals are cared for during some portion of a twenty-four-hour period.

(Ord. 415 (2008) § 28, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.210 Density.

“Density” means a ratio comparing the number of dwelling units with land area.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 281 (2002) § 3, 2002: Ord. 216 (1998) § 4 (part), 1998)

17.110.212 Density, maximum.

“Density, maximum” means the largest number of dwelling units that shall be developed on a property(s) within a specific zone based upon the gross acreage of the property(s). In circumstances involving state or federal bald eagle habitat regulations, the calculation of maximum density may be affected.

(Ord. 415 (2008) § 29, 2008)

17.110.213 Density, minimum.

“Density, minimum,” unless otherwise specified by Section 17.382.110, means the fewest number of dwelling units that shall be developed on a property(s) within a specific zone based upon the net developable acreage of the property(s).

(Ord. 415 (2008) § 30, 2008)

17.110.215 Department.

“Department” means the Kitsap County department of community development.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.220 Development.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations and other land-disturbing activities.

(Ord. 415 (2008) § 31, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.222 Development rights.

“Development rights” means the residential building rights permitted to a lot or parcel within a sending area, as defined in this chapter, based on the gross density, established pursuant to the Kitsap County zoning map and this title, and measured in base dwelling units per developable acre.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.223 Directional panel antenna.

“Directional panel antenna” means, generally, a rectangular antenna designed to transmit and receive radio frequency signals in a specific directional pattern.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.225 Director.

“Director” means the director of the Kitsap County department of community development or a duly authorized designee.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.226 Drinking establishments.

“Drinking establishments” means a business primarily engaged in the retail sale of alcoholic beverages for consumption on the premises, including night clubs, bars, and taverns. It shall not mean premises primarily engaged in the retail sale of food for consumption on the premises, where the sale of alcoholic beverages is clearly accessory and incidental (e.g., comprises less than twenty percent of the gross receipts). This definition excludes brew pubs.

(Ord. 415 (2008) § 32, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.110.230 (Repealed)*

* **Editor’s Note:** Former Section 17.110.230, “Drive-in restaurants,” was repealed by § 33 of Ord. 415 (2008). Section 5 (part) of Ord. 367 (2006) and § 4 (part) of Ord. 216 (1998) were formerly codified in this section.

17.110.240 Dwelling, single-family attached.

“Dwelling, single-family attached” or “attached single-family dwelling” means a single dwelling unit designed for occupancy by not more than one family and separated from adjacent units by one or more common vertical walls where each dwelling includes adjacent dwelling-specific yard area within its ownership.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 281 (2002) § 4, 2002: Ord. 216 (1998) § 4 (part), 1998)

17.110.242 Dwelling, single-family detached.

“Dwelling, single-family detached” or “detached single-family dwelling” means a single dwelling unit designed for occupancy by not more than one family that is physically separated from any other dwelling unit.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.245 Dwelling, duplex.

“Dwelling, duplex,” means a building containing two dwelling units and designed for occupancy by not more than two families. A duplex may not be considered a primary residence for the purposes of constructing an accessory dwelling unit or accessory living quarters.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.250 Dwelling, multiple-family.

“Dwelling, multiple-family” means a building or portion thereof containing three or more dwelling units and designed for occupancy by three or more families.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.255 Dwelling unit.

“Dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A recreational vehicle is not considered a dwelling unit.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.257 Emergency service communications.

“Emergency service communications” means any police, fire, emergency, and/or medical wireless communication of radio frequency (RF) signals through electromagnetic energy.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.260 Employees.

“Employees” means all persons, including proprietors, working on the premises.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.265 Exotic animal.

“Exotic animal” means any member of the animal kingdom which is not commonly domesticated or which is not common to North America, or which, irrespective of geographic origin, is of a wild or predatory nature, or any domesticated animal which, because of its size, vicious nature or similar characteristics, would constitute a danger to human life or property if not kept, maintained or confined in a safe manner.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.270 Family.

“Family” means two or more persons customarily living together as a single house-keeping unit and using common cooking facilities, as distinguished from a group occupying a hotel, club, boarding or lodging house, or other group of unrelated individuals.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.275 Fence, sight-obscuring.

“Fence, sight-obscuring” or “sight-obscuring fence” means a fence or combination of fence and planting arranged in such a way as to screen areas from view.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.280 Forestry.

“Forestry” means the use of land for producing and caring for a forest, including the harvesting of timber.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.285 Foster home.

“Foster home” means a dwelling unit in which a full-time resident provides care and supervision on a full-time basis to not more than six children or to not more than three expectant mothers.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.290 Frontage.

“Frontage” means the actual length of the front property line abutting a street or alley (if no street frontage), or length of the property line of a flag lot that most closely parallels the street in which it receives access.

(Ord. 415 (2008) § 34, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.295 Garage, private.

“Garage, private” means an accessory building or part of a main building intended primarily for the storage of motor vehicles owned or used by occupants of the main building.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.301 General merchandise stores.

“General merchandise stores” means stores that sell a wide variety of grocery and non-grocery items, including, but not limited to: fresh foods; packaged foods for preparation and consumption in the home; household supplies; consumer electronics; hardware; apparel; and sporting goods.

(Ord. 415 (2008) § 35, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.110.302 General office and management services.

“General office and management services” means the offices of real estate agencies, advertising agencies, mailing services and postal substations, employment agencies, insurance agencies, management and consulting firms, accountants, attorneys, security brokers, architects, surveyors, tax preparation services, computer software development, and other similar business services. This term also includes the administrative offices for businesses whose primary activity may be a non-office use conducted elsewhere. This definition excludes engineering and construction firms and financial, banking, mortgage and title institutions.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.110.303 Golf course.

“Golf course” means an area designed and used for playing golf, including all accessory uses incidental to the operation of the facility, including driving ranges.
(Ord. 367 (2006) § 5 (part), 2006)

17.110.305 Grade.

“Grade” means the average point of elevation of the finished surface of the ground within five feet of a building or structure.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.315 Gross floor area.

“Gross floor area” means the sum of horizontal areas of floors of a building when measured from the exterior faces of exterior walls or, if appropriate, from the center line of dividing walls. Gross floor area generally excludes vent shafts, covered walkways, porches, and similar areas. However, gross floor area shall include decks, or porches when covered by a roof or portion of the floor above.
(Ord. 415 (2008) § 36, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.317 Guest house.

“Guest house” means living quarters in an accessory building for the use of the occupant, persons employed on the premises, or for temporary use by guests of the occupant. Such quarters have no kitchen facilities and are not otherwise used as a separate dwelling unit.
(Ord. 415 (2008) § 37, 2008: Ord. 367 (2006) § 5 (part), 2006)

17.110.319 Habitable area.

“Habitable area” means the entire area of a dwelling unit or living quarters used for living, sleeping, eating and/or cooking. Storage areas and garages are excluded from calculations of habitable area.
(Ord. 415 (2008) § 38, 2008)

17.110.320 Habitable floor.

“Habitable floor” means any floor usable for living purposes including working, sleeping, eating, cooking, or recreating uses, or any combination of these uses. A floor used only for storage purposes is not a “habitable floor.”
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.325 Hearing examiner.

“Hearing examiner” means a person appointed to hear or review certain land use applications and appeals pursuant to Title 21 of this code, the Land Use and Development Procedures Ordinance.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.330 Heavy equipment.

“Heavy equipment” means, but shall not be limited to self-powered, self-propelled or towed mechanical devices, equipment and vehicles of the nature customarily used for commercial purposes such as tandem axle trucks, graders, backhoes, tractor trailers, cranes and lifts but excluding automobiles, recreational vehicles, boats and their trailers and equipment used for agricultural purposes.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.340 (Repealed)*

* **Editor’s Note:** Former Section 17.110.340, “High turnover restaurants,” was repealed by § 39 of Ord. 415 (2008). Section 5 (part) of Ord. 367 (2006) and § 4 (part) of Ord. 216 (1998) were formerly codified in this section.

17.110.345 Home business.

“Home business” means a commercial or industrial use (excluding retail) conducted within a dwelling, which use is clearly secondary to the use of the dwelling for residential purposes.
(Ord. 415 (2008) § 40, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.350 Home day care.

“Home day care” means the same as “day-care, family.”

(Ord. 367 (2006) § 5 (part), 2006)

17.110.355 Home owners' association.

"Home owners association" means a non-profit organization as defined by the State of Washington operating under recorded land agreements established through which the following take place:

- A. Each person owning or purchasing a lot in a planned unit or other described land area is automatically a member by such ownership or purchase;
- B. Each lot may be automatically subject to a charge for a proportionate share of the expenses for the organization's activities, including but not limited to maintaining a common property, such as streets, walkways, recreational facilities, or grounds policing; and
- C. Construction and maintenance responsibilities for any undivided property are identified and assigned.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.360 Hospital.

"Hospital" means any institution, place, building, or agency which maintains and operates organized facilities for the diagnosis, care, and treatment of human illness, including convalescence and also including care during and after pregnancy; or which maintains and operates organized facilities for any such purpose, and to which persons may be admitted for overnight stay or for a longer period. This definition excludes clinics.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.365 Hotel/motel.

"Hotel/motel" means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests. This definition excludes bed and breakfast houses.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.366 Immediate vicinity.

"Immediate vicinity" means an area to include all lots, parcels, tracts, roadways or other property(s) within a four-hundred-foot radius of a subject property.

(Ord. 415 (2008) § 41, 2008)

17.110.367 Impervious surface.

"Impervious surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.368 Infill development.

"Infill development" means the construction of housing or other uses on vacant or under-utilized properties bordered on a minimum of two sides by existing development which is consistent with the current density and zoning of the area.

(Ord. 415 (2008) § 42, 2008)

17.110.369 Junk motor vehicle.

"Junk motor vehicle" means a motor vehicle that is damaged, apparently inoperable, or any detached parts thereof, including, but not limited to, cars, trucks, motorcycles, vehicle hulks, campers, trailers and/or motor homes. "Junk motor vehicle" does not include a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, or a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the requirements of RCW 46.80.130.

(Ord. 367 (2006) § 5 (part), 2006; Ord. 292 (2002) § 1, 2002)

17.110.370 Junk yard.

“Junk yard” means a place where waste or scrap materials are stored, bought, sold, accumulated, exchanged, baled, packaged, disassembled or handled including, but not limited to, scrap metals, paper, rags, tires, and bottles, and such worn out or discarded material, excluding approved recycling centers. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.375 Kennel.

“Kennel” means a place where dogs and/or cats are kept, for compensation. This definition includes pet daycares, but excludes veterinary clinics and hospitals, pet shops and zoos. (Ord. 419 (2008) § 3, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.380 Kennel, hobby.

“Hobby kennel” means a place where not more than ten adult dogs are kept for personal enjoyment, not for compensation. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.390 Landscaping.

“Landscaping” means the placement, preservation, and the replacement of not only trees, grass, shrubs, plants, flowers, and other vegetative materials but also the arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas and artificial turf or carpeting in accordance with an approved landscaping plan meeting adopted landscaping plan, design, and installation standards. Artificial plants, shrubs, bushes, flowers, and materials in movable containers shall not be considered “landscaping” for purposes of this title. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.393 Lattice support structure.

“Lattice support structure” means a guyed or self-supporting three or four-sided, open, metal frame structure used to support telecommunication equipment. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.395 Livestock.

“Livestock” means horses, bovine, sheep, goats, swine, reindeer, donkeys, mules, llamas and any other hoofed animal, large and small (small being one hundred fifty pounds or less). (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.396 Loading space.

“Loading space” means a space for temporary parking of a vehicle while loading and unloading cargo or passengers. (Ord. 415 (2008) § 43, 2008)

17.110.400 Lot.

“Lot” means platted or unplatted parcel of land which meets the minimum area, setbacks and widths required by this title for occupancy by a principal use and meets the access requirements of this title. (Ord. 415 (2008) § 44, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.405 Lot area.

“Lot area” means the horizontal area within the boundary lines of a lot excluding public and private streets, tidelands, shorelands and the panhandle of a flag lot if the panhandle is less than thirty feet in width. Areas consisting of only these exceptions are not considered lots. Further, rural lots shall be considered five acres if the lot is 1/128 of a section, ten acres if the lot is 1/64 of a section, and twenty acres if the lot is 1/32 of a section. (Ord. 415 (2008) § 45, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.410 Lot, corner.

“Lot, corner” or “corner lot” means a lot abutting upon two or more streets at their intersection, or upon two parts of the same street; such street or parts of the same street forming an interior angle of less than one hundred thirty degrees within the lot lines. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.412 Lot, interior.

“Lot, interior” or “interior lot” means a lot or parcel of land other than a corner lot which does not abut a public street.

(Ord. 415 (2008) § 46, 2008)

17.110.415 Lot coverage.

“Lot coverage” means that percentage of the total lot area covered by buildings.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.420 Lot depth.

“Lot depth” means the horizontal distance between the midpoint of the front and opposite, usually, the rear lot line. In the case of a corner lot, the depth shall be the length of its longest front lot line.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.425 (Repealed)*

* **Editor’s Note:** Former Section 17.110.425, “Lot, interior,” was repealed by § 47 of Ord. 415 (2008). Section 5 (part) of Ord. 367 (2006) and § 4 (part) of Ord. 216 (1998) were formerly codified in this section.

17.110.430 Lot line.

“Lot line” means any line bounding a lot as herein defined. Lot lines for unusual lot configurations may be determined by the director.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.435 Lot line, front.

“Lot line, front” or “front lot line” means that boundary of a lot which is along a street or approved private road or easement, or, for a flag lot, approximately parallel to a street or approved private road or easement; and thus generally where access is from.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.440 Lot line, rear.

“Lot line, rear” or “rear lot line” means that boundary of a lot which is most distant from the front lot line; or the ordinary high water mark on waterfront property.

(Ord. 415 (2008) § 48, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.445 Lot line, side.

“Lot line, side” or “side lot line” means any boundary of a lot which is not a front or rear lot line.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.450 Lot of record.

“Lot of record” means a lot which was created in accordance with the laws and regulations in effect at the time it was created and is shown on the records of the county assessor or county auditor.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.455 Lot, through.

“Lot, through” or “through lot” means an interior lot having frontage on two streets and/or highways.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.460 Lot width.

“Lot width” means the average horizontal distance between the side lot lines.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.462 Macro antenna array.

“Macro antenna array” means an attached wireless communication facility which consists of antennas equal to or less than fifteen feet in height or a parabolic antenna up to forty inches in diameter and with an area not more than one hundred square feet in the aggregate as viewed from any one point.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.465 Maintain.

“Maintain” means to cause or allow to continue in existence. When the context indicates, the word means to preserve and care for a structure, improve or condition an area to such an extent that it remains attractive, safe, presentable, and carry out the purpose for which it was installed, constructed, or required.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.470 Manufactured home.

“Manufactured home” means a single-family dwelling constructed after June 15, 1976, and built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act. A manufactured home is built on a permanent chassis.

(Ord. 415 (2008) § 49, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.473 Manufacturing and fabrication.

“Manufacturing and fabrication” means the transformation of materials or substances into new products, including construction and assembling of component parts, and the blending of materials such as lubricating oils, plastics, resins or liquors.

A. Light: Light manufacturing and fabrication is characterized by the use being contained within buildings, and materials or equipment used in production not being stored outside. Light manufacturing and fabrication activities do not generate external emissions such as smoke, odor, noise, vibrations or other nuisances outside the building. This definition may include, but is not limited to, manufacture and fabrication of electronic components, software, office products, furniture, glass products, and other manufacturing and fabrication uses as determined by the reviewing official.

B. Medium: Medium manufacturing and fabrication is characterized by need for only very limited areas of outdoor storage and may create minor external environmental impacts during the conduct of operations but most impacts are contained on site. This definition may include, but is not limited to, manufacture and fabrication of paints, printing ink, leather goods, and other manufacturing and fabrication uses as determined by the reviewing official.

C. Heavy: Heavy manufacturing and fabrication uses are often characterized by the need for large outdoor areas in which to conduct operations, and typically results in environmental impacts beyond their own sites. This definition may include, but is not limited to, manufacture and fabrication of automotive vehicles and their parts, cement, brick, lime, gypsum, asphalt, and other manufacturing and fabrication uses as determined by the reviewing official. This definition excludes manufacture and fabrication of hazardous materials.

D. Hazardous: Hazardous manufacturing and fabrication uses are those engaged in the manufacture or fabrication of materials that are flammable, explosive, or present hazards to the public health, safety, and welfare, including all substances and materials defined as hazardous materials, hazardous substances, or hazardous waste.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.475 Marina.

“Marina” means a public or private facility which for compensation provides moorage or wet or dry storage for watercraft and may offer marine-related sales and services.

(Ord. 415 (2008) § 50, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.477 Master plan.

“Master plan” means a large-scale development plan to guide the long-term physical development of a particular area. Such a plan shall be prepared and approved pursuant to Chapter 17.415 or 17.428 of this title.

(Ord. 415 (2008) § 51, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.110.480 Micro antenna array.

“Micro antenna array” means an attached wireless communication facility which consists of antennas equal to or less than four feet in height (except omni-directional antennas which may be up to six feet in height) and with an area of not more than five hundred eighty square inches in the aggregate.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.483 Mini antenna array.

“Mini antenna array” means an attached wireless communication facility which consists of antennas equal to or less than ten feet in height or a parabolic antenna up to forty inches in diameter and with an area not more than fifty square feet in the aggregate as viewed from any one point.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.485 Mixed use development.

“Mixed use development” means the development of a site or building with a combination of residential and non-residential uses in a single or physically integrated group of buildings.(Ord. 367 (2006) § 5 (part), 2006)

17.110.490 Mobile home.

“Mobile home” means a factory-built single-family dwelling constructed prior to June 15, 1976, to standards other than the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act.
(Ord. 415 (2008) § 52, 2008; Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.493 Mobile home park.

“Mobile home park” means a tract of land developed or operated as a unit with individual leased sites and facilities to accommodate two or more mobile homes or manufactured homes.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.503 Mono-pole.

“Mono-pole” means a structure composed of a single spire used to support telecommunication equipment.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.504 Movie/performance theater.

“Movie/performance theater” means a facility for showing films and performance art, including accessory retail sales of food and beverages. This definition excludes adult entertainment uses.
(Ord. 419 (2008) § 4, 2008; Ord. 367 (2006) § 5 (part), 2006)

17.110.506 Net developable area.

“Net developable area” means the site area after subtracting all rights-of-way, critical areas (including bald eagle habitat regulations) and their buffers, stormwater controls, recreational facilities, public facilities, community drainfields or other area-wide sanitary sewer facilities, and open space.
(Ord. 415 (2008) § 53, 2008)

17.110.508 Nonconforming lot.

“Nonconforming lot” means a lot was lawfully created but does not conform to the lot requirements of the zone in which it was located as established by this title or other ordinances or amendments thereto.
(Ord. 415 (2008) § 54, 2008; Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998.
Formerly 17.110.505)

17.110.510 Nonconforming use or structure.

“Nonconforming use or structure” means a use of land or structure which was lawfully established or built and which has been lawfully continued but which does not conform to the regulations established by this title or amendments thereto.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.515 Nuisance.

“Nuisance” means in addition to those definitions contained in RCW 9.66 and RCW 7.48, as amended, any violation of this title shall constitute a nuisance, per se.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.520 Nursery, retail.

“Nursery, retail” means an establishment where trees, shrubs and other plant materials are grown, propagated and/or stored for purpose of sale directly to the public.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.525 Nursery, wholesale.

“Nursery, wholesale” or “wholesale nursery” means an establishment where trees, shrubs or other plants are propagated on the property and/or continuously grown to a larger size for a period no less than one complete growing season and that is not open to the public on a regular basis. Temporary outdoor stands for the periodic and occasional sale of plants which are grown on the premises shall not disqualify an establishment for definition as a wholesale nursery. No bark, mulch, fertilizer or other similar landscape supply may be sold.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.530 Nursing or rest home.

See Section 17.110.190, Convalescent, nursing or rest home.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.535 Open space.

“Open space” shall mean land used for outdoor active and passive recreational purposes or for critical area or resource land protection, including structures incidental to these open space uses, including associated critical area buffers, but excluding land occupied by dwellings or impervious surfaces not related to the open space uses and yards required by this title for such dwellings or impervious surfaces. “Open space” is further divided into the following categories:

A. “Common open space” shall mean space that may be used by all occupants of a development complex or, if publicly dedicated, by the general public;

B. “Active recreational open space” shall mean space that is intended to create opportunities for recreational activity. Active recreational open space may be occupied by recreational facilities such as ball fields, playground equipment, trails (pedestrian, bicycle, equestrian or multi-modal), swimming pools, and game courts or sculptures, fountains, pools, benches or other outdoor furnishings;

C. “Passive open space” shall mean all common open space not meeting the definition of active recreational open space, including, but not limited to, critical areas and their associated buffers;

D. “Permanent open space” means an area that is permanently reserved as open space and remains in native vegetation unless approved for forestry, passive recreational or access uses; and

E. “Recreational open space” means an area that shall be improved and maintained for its intended use. Exterior as well as interior areas can constitute recreational open space. Examples of usable recreational space include swimming pools, community buildings, interior gyms, picnic areas, tennis courts, community gardens, improved playgrounds, paths and passive seating areas.

(Ord. 415 (2008) § 55, 2008: Ord. 407 (2008) § 6, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 311 (2003) [Attachment 7 (part)], 2003: Ord. 216 (1998) § 4 (part), 1998)

17.110.540 Ordinary high water mark.

“Ordinary high water mark” means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.545 Owner.

“Owner” means the owner of record of real property or person purchasing a piece of property under contract. For the purposes of this title, in terms of violations and binding agreements between the county and the owner, “owner” shall also mean a leaseholder, tenant, or other person in possession or control of the premises or property at the time of agreement, violations of agreement, or the provisions of this title. For the purpose of processing an application for a land use approval or permit under this title, where such application or permit must be filed by an owner, the term “owner” also includes a governmental entity contemplating acquisition of a parcel for a use which would require such permit or approval.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.547 Parabolic antenna.

"Parabolic antenna" means an antenna which is a bowl-shaped device for the reception and/or transmission of radio frequency communication signals in a specific directional pattern. (Also known as a "dish antenna.")

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.548 Parcel.

"Parcel" means platted or unplatted portions of land carrying an assessor's tax account number. Parcels may be, but are not necessarily, legal lots.

(Ord. 415 (2008) § 56, 2008)

17.110.550 Park.

"Park" means public or private areas of land, with or without buildings, intended for outdoor active or passive recreational uses including, but not limited to, arboretums, horticultural gardens and nature preserves.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.555 Parking area, public.

"Parking area, public" or "public parking area" means an open area other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free of charge, or as an accommodation for clients or customers.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.560 Parking space.

"Parking space" means a permanently surfaced and marked area not less than nine feet wide and twenty feet long, excluding paved area necessary for access, for the parking of a motor vehicle.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.565 Parking space, barrier free.

"Parking space, barrier free" or "barrier free parking space" means a parking space conforming with WAC Chapter 51.30.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.570 Parking space, compact.

"Parking space, compact" or "compact parking space" means a permanently surfaced and marked area not less than eight feet wide and eighteen feet long, excluding paved area necessary for access, for the parking of a compact motor vehicle.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.572 Performance based development (PBD).

"Performance based development" (or "PBD") means a property development characterized by comprehensive planning of the total project, though it may contain a variety of individual lots and/or uses. Typically, such a project may include clustering of structures and preservation of open space with a number of flexible and customized design features specific to the natural features of the property and the uses sought to be implemented. Specific lot area, dimension and setback requirements may be reduced or deleted in order to allow flexibility and innovation in building design or placement, to facilitate allowed densities and to increase open space, critical areas protection and similar components of the project.

(Ord. 415 (2008) § 57, 2008)

17.110.575 Perimeter setback.

"Perimeter setback" means in a performance based development (PBD), the horizontal distance between a building line and the exterior boundary of the PBD.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.576 Permitted use.

“Permitted use” means a land use allowed outright in a certain zone without a public hearing or conditional use permit; provided, such use is developed in accordance with the requirements of the zone and general conditions of this title, and all applicable provisions elsewhere in the county code.
(Ord. 415 (2008) § 58, 2008)

17.110.580 Person.

“Person” means an individual, partnership, corporation, association, organization, cooperative, tribe, public or municipal corporation, or agency of the state or local governmental unit however designated.
(Ord. 415 (2008) § 59, 2008; Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.585 Pet.

“Pet” means any animal less than one hundred fifty pounds in weight, other than exotic animals, kept for companionship, recreation or other non-agricultural purposes.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.590 Pet, non-traditional.

“Pet, non-traditional” or “non-traditional pet” means any pet other than a dog, cat, fish or non-raptor bird.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.591 Pharmacies.

“Pharmacies” shall mean businesses primarily engaged in the sale of prescription and over-the-counter drugs, vitamins, first-aid supplies, and other health-related products. Pharmacies that also sell a wide variety of other types of merchandise, such as beauty products, camera equipment, small consumer electronics, gift wares, housewares, and/or cleaning supplies are considered “general merchandise stores.”
(Ord. 367 (2006) § 5 (part), 2006; Ord. 311 (2003) [Attachment 7 (part)], 2003)

17.110.595 Pier.

“Pier” means a fixed structure built over tidelands or shorelands used as a landing for marine or recreational purposes.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.600 Places of worship.

“Places of worship” means a permanently located building primarily used for religious worship.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.605 (Repealed)*

* **Editor’s Note:** Former Section 17.110.605, “Performance based development (PBD),” was repealed by § 60 of Ord. 415 (2008). Section 5 (part) of Ord. 367 (2006) and § 4 (part) of Ord. 216 (1998) were formerly codified in this section.

17.110.610 Planning commission.

“Planning commission” means the Kitsap County planning commission.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.615 Porch.

“Porch” means a covered attached structure providing a single entrance to a building, which may be either open or enclosed up to one third.
(Ord. 415 (2008) § 61, 2008; Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.620 Portable sign.

“Portable sign” means a sign which has no permanent attachment to a building or the ground which include, but is not limited to, A-frame, pole attachment, banners and reader board signs.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.625 Premises.

“Premises” means a tract or parcel of land with or without habitable buildings.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.630 Private airport or heliport.

“Private airport or heliport” means any runway, landing area or other facility designed and used by individual property owners for private aircraft for the purposes of landing and taking off, including associated facilities, such as hangars and taxiways.
(Ord. 415 (2008) § 62, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.635 Prohibited use.

“Prohibited use” means any use which is not expressly allowed and does not meet the criteria under Section 17.100.040.
(Ord. 415 (2008) § 63, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.637 Project permit or project permit application

“Project permit” or “project permit application” means any land use or environmental permit or license required from Kitsap County for a project action, including, but not limited to, building permits, subdivisions, binding site plans, performance based developments, conditional uses, shoreline substantial development permits, permits or approvals required by critical area ordinances, and site-specific rezones authorized by the Kitsap County Comprehensive Plan (Plan) or a sub-area plan, but excluding the adoption or amendment of the Plan, a sub-area plan, or development regulations.
(Ord. 367 (2006) § 5 (part), 2006)

17.110.640 Public facilities.

“Public facilities” means streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, waste handling facilities designated as public facilities in the comprehensive solid waste management plan, parks and recreational facilities, schools, public works storage facilities and road sheds, and utilities such as power, phone and cable television.
(Ord. 415 (2008) § 64, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.642 Race track, major.

“Race track, major” means a public or private facility developed for the purpose of operating and/or competitive racing of automobiles, motorcycles or similar vehicles. The facility may allow for up to six thousand spectators and may contain an oval, drag strip, road track and/or other course. Accessory uses may include the sale of concessions and souvenirs, a recreational vehicle camping park, community events and/or vehicle safety training.
(Ord. 415 (2008) § 65, 2008)

17.110.643 Race track, minor.

“Race track, minor” means a public or privately owned course designed for the operating and/or racing of automobiles, motorcycles, all-terrain vehicles or similar vehicles along a defined route that may include straight-aways, curves, jumps and/or other features.
(Ord. 415 (2008) § 66, 2008)

17.110.645 Receiving areas and parcels.

“Receiving areas and parcels” means areas within an urban growth area that are designated on the Kitsap County zoning map or by further action of the board of county commissioners, that may be eligible for additional residential development through the transfer of development rights.
(Ord. 367 (2006) § 5 (part), 2006)

17.110.646 Recreational amenity, active.

A “recreational amenity, active” means an area within a development intended for use by the residents, employees or patrons of the development for leisure activities. Such facilities may include, but are not limited to, a paved sports court, children’s play equipment, exercise fitness trail, community garden or gathering area with water service or similar facility.
(Ord. 415 (2008) § 67, 2008)

17.110.647 Recreational facility.

“Recreational facility” means a place designed and equipped for the conduct of sports and leisure-time activities. Examples include athletic fields, batting cages, amusement parks, picnic areas, campgrounds, swimming pools, driving ranges, skating rinks and similar uses. Public recreational facilities are those owned by a government entity.

(Ord. 415 (2008) § 68, 2008: Ord. 367 (2006) § 5 (part), 2006)

17.110.650 Recreational vehicle.

“Recreational vehicle” means a vehicle such as a motor home, travel trailer, truck and/or camper combination or camp trailer which is designed for temporary human habitation for recreational or emergency purposes and which may be moved on public highways without any special permit for long, wide or heavy loads.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.655 Recreational vehicle camping park.

“Recreational vehicle camping park” means a tract of land under single ownership or unified control developed with individual sites for rent and containing roads and utilities to accommodate recreational vehicles or tent campers for vacation or other similar transient, short-stay purposes.

(Ord. 415 (2008) § 69, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.660 Residential care facility.

“Residential care facility” means a facility that is the primary residence of a person or persons who are providing personal care, room and board, and medical care for at least five, but not more than fifteen, functionally disabled persons.

(Ord. 415 (2008) § 70, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.662 Restaurant.

“Restaurant” means an establishment where food and/or beverages are served to customers for compensation.

(Ord. 415 (2008) § 71, 2008)

17.110.663 Restaurant, high-turnover.

“High-turnover restaurant” means retail establishments providing food and/or beverages for sale, and which are distinguished by one or more of the following:

- A. Use of disposable food containers and utensils;
- B. Self-service is available;
- C. The principal business is take-out foods and beverages;
- D. Drive-in service is available.

(Ord. 415 (2008) § 72, 2008)

17.110.665 Rezone.

“Rezone” means a change in the zoning classification on the Kitsap County Zoning Map that affects one parcel or a small group of contiguous parcels, a section, or sections of Kitsap County consistent with Chapter 17.510.(Ord. 367 (2006) § 5 (part), 2006)

17.110.666 Rural character.

“Rural character” means the patterns of land use and development that are consistent with the following:

- A. Open space, the natural landscape, and vegetation predominate over the built environment;
- B. Traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
- C. Visual landscapes that are traditionally found in rural areas and communities;
- D. Compatible with the use of the land by wildlife and for fish and wildlife habitat;
- E. Reduces the inappropriate conversion of undeveloped land into low-density development;
- F. Protects natural surface water flows and ground water and surface water recharge and discharge areas; and
- G. Meets the requirements of RCW 36.70A.030(15).

(Ord. 415 (2008) § 73, 2008: Ord. 367 (2006) § 5 (part), 2006)

17.110.667 Rural cluster.

“Rural cluster” means site development that avoids sensitive areas while preserving forested land, steep slopes, wetlands, prairies and other ecologically or visually valuable landscape features while still obtaining residential density. Typically a percentage of a site area is preserved in its existing natural or farmed state, with individual house lots occupying the remaining acreage.
(Ord. 367 (2006) § 5 (part), 2006)

17.110.668 Rural Wooded Incentive Program development.

“Rural Wooded Incentive Program development” means a development within the area designated “Rural Wooded” on the Kitsap County Comprehensive Plan land use map that has utilized the clustering provisions of this title and for which final approval has been granted by the board of county commissioners.
(Ord. 367 (2006) § 5 (part), 2006)

17.110.669 Sending areas and parcels.

“Sending areas and parcels” means undeveloped or partially developed lot(s) or parcel(s) located within a sending area, designated on the Kitsap County zoning map or by further action of the board of county commissioners, that are appropriate to transfer development rights.
(Ord. 367 (2006) § 5 (part), 2006)

17.110.670 Setback.

“Setback” means the horizontal distance from a property line to the nearest vertical wall or other element of a building or structure.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.673 Shipping container.

“Shipping container” means any repository greater than 25 feet in length traditionally commonly used for the interstate or international transport of goods.
(Ord. 415 (2008) § 74, 2008; Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.674 (Repealed)*

* **Editor’s Note:** Former Section 17.110.674, “Sheltered transit stop,” was repealed by § 75 of Ord. 415 (2008). Section 5 (part) of Ord. 367 (2006) and Attachment 7 (part) of Ord. 311 (2003) were formerly codified in this section.

17.110.675 Sign.

“Sign” means a collection of letters, numbers or symbols which calls attention to a business, product, activity, person or service. Balloons or balloon type devices in excess of five cubic feet, or flown more than twenty feet in elevation measured from grade, or taller than twenty feet in height measured from mean grade are considered signs for the purposes of this ordinance.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 281 (2002) § 5, 2002; Ord. 216 (1998) § 4 (part), 1998)

17.110.680 Sign permit.

“Sign permit” means a permit which authorizes the placement or alteration of a sign on a particular parcel of property or building.
(Ord. 367 (2006) § 5 (part), 2006; Ord. 216 (1998) § 4 (part), 1998)

17.110.683 Site.

“Site” means the spatial location of an actual or planned development. A site may contain multiple lots or parcels, excluding public right-of-way.
(Ord. 367 (2006) § 5 (part), 2006)

17.110.685 Site plan.

“Site plan” means a plan prepared to scale, showing accurately and with complete dimensions, all proposed and existing buildings, landscaping, open space, structures and features on abutting properties, and parking proposed for a specific parcel of land; including the specific requirements listed in the pre-application meeting summary and/or application.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.686 Site-specific amendment.

“Site-specific amendment” means an amendment to the Comprehensive Plan and/or Zoning Map that affects one or a small group of contiguous parcels. A site-specific amendment most frequently affects only the land use designation and/or zoning classification and not the text of the Comprehensive Plan or a development regulation.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.687 Stealth technology.

See Section 17.110.057, Alternative technology.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.688 Storage, hazardous materials.

“Storage, hazardous materials” means the storage of materials produced on-site or brought from another site that are flammable, explosive, or present hazards to the public health, safety, and welfare, including all substances and materials defined as hazardous materials, hazardous substances, or hazardous waste.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.689 Storage, self-service.

“Storage, self-service” means a building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property. This definition excludes indoor storage, outdoor storage, vehicle and equipment storage, and hazardous materials storage.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.690 Storage, vehicles and equipment.

“Storage, vehicle and equipment” means an indoor or outdoor area for parking or holding of motor vehicles and boats or wheeled equipment for more than seventy-two hours. This definition excludes automotive sales and rentals, automotive service and repair shops, and auto wrecking yards.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.691 Storage, indoor.

“Storage, indoor” means storage of goods and/or materials located within a building. The definition excludes hazardous materials storage, self-service storage, outdoor storage, and vehicle storage.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.692 Storage, outdoor.

“Storage, outdoor” means outdoor storage of products, supplies, and equipment. This definition excludes hazardous materials storage, self-service storage, indoor storage, and vehicle storage.

(Ord. 367 (2006) § 5 (part), 2006)

17.110.693 Storage container.

“Storage container” means any repository twenty-five feet or less in length commonly used for the transit and short-term storage of residential belongings.

(Ord. 415 (2008) § 76, 2008)

17.110.695 Street.

“Street” means all roads, streets, highways, roadways, freeways, easements, and public rights-of-way used for or designed for vehicular access or use including private roads serving or intended to serve five or more lots. Streets may also include provisions for public utilities, pedestrian walkways, cut and fill slopes, and storm drainage facilities.

(Ord. 415 (2008) § 77, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.700 Structural alteration.

“Structural alteration” means any change or a repair of the supporting members of a building or structure and may be subject to the provisions of Chapter 17.460.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.705 Structure.

“Structure” means that which is built or constructed.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.706 Sub-area plan.

“Sub-area plan” means a detailed, local land use plan which is a subcomponent of the Kitsap County Comprehensive Plan. A sub-area plan contains specific policies, guidelines, and criteria for a specific geographic area of Kitsap County.
(Ord. 415 (2008) § 78, 2008)

17.110.707 Support structure.

“Support structure” means a structure designed and constructed specifically to support a wireless communication antenna array, and may include a mono-pole, self supporting (lattice) tower, guy-wire support tower and other similar structures. Any device which is used to attach an attached wireless communication facility to an existing building or structure shall be excluded from the definition of and regulations applicable to support structure.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.710 Temporary sign.

“Temporary sign” means a sign or balloons intended for use which shall not be displayed for more than fourteen consecutive days and twice in a calendar year, which shall include, but is not limited to, portable signs, banners, A-boards and pennants.
(Ord. 415 (2008) § 79, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.715 Temporary structure.

“Temporary structure” means a structure which does not have or is not required by the Uniform Building Code to have a permanent attachment to the ground. Temporary structures are subject to building permits.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.720 Temporary use.

“Temporary use” means a use which may occur on a lot on a seasonal basis or for a prescribed period of time which usually would not exceed one year’s duration.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.725 Tract.

“Tract” means land reserved for specified uses including, but not limited to, reserve development tracts, recreation, open space, critical areas, stormwater facilities, utilities and access tracts. Tracts are not considered lots.
(Ord. 415 (2008) § 80, 2008)

17.110.730 Use.

“Use” means the nature of occupancy, type of activity or character and form of improvements to which land is devoted.
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.735 (Repealed)*

* **Editor’s Note:** Former Section 17.110.735, “Use separation buffer,” was repealed by § 81 of Ord. 415 (2008). Section 5 (part) of Ord. 367 (2006) and § 4 (part) of Ord. 216 (1998) were formerly codified in this section.

17.110.740 Veterinary clinic.

“Veterinary clinic” means the same as “animal hospital.”
(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.745 Water-dependent use.

“Water-dependent use” means a use or portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking marinas, aquaculture and float plane facilities. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.750 Water-enjoyment use.

“Water-enjoyment use” means a recreational use, or other use facilitating public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of the use and which through the location, design, and operation assure the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline space of the project must be devoted to provisions that accommodate public shoreline enjoyment. Examples may include parks, piers, museums, restaurants, education/scientific reserves, resorts and mixed use projects. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.755 Water-oriented use.

“Water-oriented use” means any combination of water-dependent, water-related and or water-enjoyment uses and serves as an all encompassing definition for priority uses under the Shoreline Management Act (SMA). (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.760 Water-related use.

“Water-related use” means a use or a portion of a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a waterfront location. Examples may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.765 Wireless communication antenna array.

“Wireless communication antenna array” means one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy that can be attached to a building or sign. Wireless communication antenna array examples may include an omni-directional antenna (whip), a directional antenna (panel) and/or a parabolic antenna (dish). (Ord. 415 (2008) § 82, 2008: Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.770 Wireless communication facility.

“Wireless communication facility” means any unstaffed facility used for the transmission and/or reception of radio frequency (RF) signals through electromagnetic energy. This usually consists of an equipment shelter or cabinet, a support tower or structure used to achieve the necessary elevation, and the antenna array. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.775 Wireless communication support structure.

“Wireless communication support structure” means a structure specifically designed to support a wireless communication antenna array. This may include a mono-pole structure, lattice structure or building. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.780 Whip antenna.

“Whip antenna” means an antenna that is cylindrical in shape up to twenty feet in height. (Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.782 (Repealed)*

* **Editor's Note:** Former Section 17.110.782, Wooded reserve, was repealed by Section 7 of Ord. 407 (2008). The section was originally derived from Ord. 367 § 5 (part), 2006.

17.110.783 Wrecking yard.

"Wrecking yard" means a place where damaged, inoperable or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled or handled.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.785 Yard.

"Yard" means any area on the same lot with a building or a structure, which area is unoccupied and unobstructed by any structure from the ground upward to the sky.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.790 Yard, front.

"Yard, front" or "front yard" means an area extending the full width of the lot between a building and the front (or roadway) lot line, except as specified elsewhere in this title.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.795 Yard, rear.

"Yard, rear" or "rear yard" means an open space area extending the full width of the lot between a building and the rear lot line, unoccupied, and unobstructed from the ground upward, except as specified elsewhere in this title.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.800 Yard, side.

"Yard, side" or "side yard" means an area extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

17.110.805 Zone.

"Zone" means a section or sections of Kitsap County within which the standards governing the use of land, buildings, and premises are uniform, which is provided for in Chapter 17.200 of this title.

(Ord. 367 (2006) § 5 (part), 2006: Ord. 216 (1998) § 4 (part), 1998)

This page of the Kitsap County Code is current through Ordinance 446 (2010), passed January 11, 2010.

Disclaimer: The Clerk of the Board's Office has the official version of the Kitsap County Code. Users should contact the Clerk of the Board's Office for ordinances passed subsequent to the ordinance cited above.

County Website: <http://www.kitsapgov.com/>

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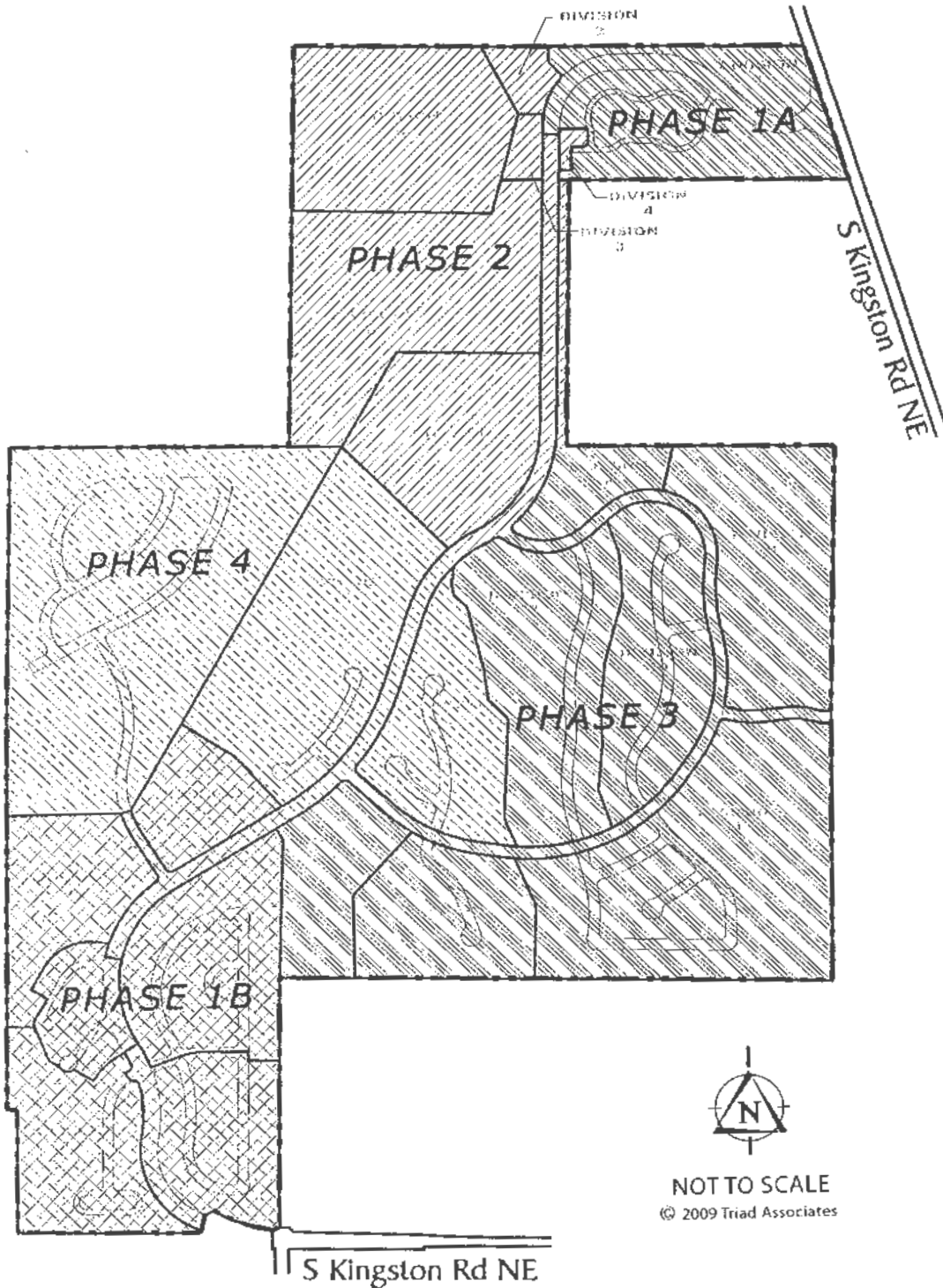
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ATTACHMENT F

PHASING MAP

The attached Phasing Map sets forth the initial estimated Phasing Plan for the Project. OPG may modify the Phasing Map by adjusting the timing, the divisions to be included in any particular Phase, creating additional Phases or consolidating Phases or otherwise adjusting the Phases to account for development demands, costs and market conditions.

ARBORWOOD PHASING MAP



ATTACHMENT G
FORM OF CONSERVATION EASEMENT

After recording mail to:

OPG PROPERTIES, LLC
c/o Jon Rose
19245 Tenth Avenue NE
Poulsbo, WA 98370-7456

ARBORWOOD GREENWAY CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT (“Easement”) is made _____, 20__, by OPG PROPERTIES, LLC, a Washington limited liability company (“Grantor”), in favor of KITSAP COUNTY, a Washington municipal corporation (“Grantee”).

I. RECITALS

1. Grantor is the sole owner in fee simple of approximately 104 acres of real property in Kitsap County, Washington, more particularly described in Exhibit A, attached to and incorporated in the Easement (the “Greenway Property”). The Greenway Property is located within Grantor’s Arborwood Plat/PBD approved by Kitsap County (LIS # 07 47662).

2. The Greenway Property has scenic area, open space, natural, forestland, watershed, wetlands, and wildlife habitat values (collectively, “Conservation Values”) of great importance to Grantor, Grantee and the people Kitsap County, the Suquamish Tribe and the State of Washington.

3. Grantor intends that the Conservation Values be preserved and maintained by prohibiting uses of or activities on the Property that will impair or interfere with the Conservation Values.

5. Upon final delineation of the boundaries of the Greenway Property, Grantor will convey to Grantee fee title to the Greenway Property pursuant to that certain Development Agreement dated _____, 20__, and recorded under Kitsap County Recording No. _____, and the Arborwood Preliminary Plat PBD so that Grantee may preserve and protect the Conservation Values in perpetuity.

6. Grantee is a county and is authorized to acquire land for conservation and open space preservation purposes pursuant to the Revised Code of Washington (“RCW”) 64.04.130 and RCW

84.34.200. Grantee has a primary purpose of conservation and preservation of the waters, wetlands, wildlife habitat, timberlands, undeveloped land, scenic areas, open spaces and recreational lands in Kitsap County, Washington.

II. TERMS OF EASEMENT

1. **Grant of Easement.** For the reasons stated above, Grantor hereby grants and conveys to Grantee a conservation easement over the Greenway Property of the nature and character and to the extent set forth in this Easement. Grantor covenants to comply with and be bound by all of the terms and provisions this Easement. This Easement is a conveyance of an interest in real property pursuant to the laws of the State of Washington and, in particular, RCW 84.34.200 and RCW 64.04.130. Grantor intends this Easement to be an absolute, unconditional, unqualified and completed gift to Grantee, subject only to the mutual covenants and restrictions set forth in this Easement, and for no other consideration whatsoever. This Easement and the rights, restrictions and covenants contained in it shall be perpetual and run with the land.

2. **Purposes and Intent.** The purposes of this Easement are to assure that the Conservation Values of the Property will be retained forever in their current condition and to prevent any use of the Property that will substantially impair or interfere with the Conservation Values. Grantor intends that this Easement will restrict the use of the Property to such activities as are consistent with the purposes of this Easement.

3. **Rights of Grantee.** To accomplish the purposes of this Easement, the following rights are hereby conveyed to Grantee:

3.1. To preserve and protect the Conservation Values.

3.2. To enter upon the Greenway Property at reasonable times to monitor Grantor's compliance with and otherwise enforce the terms of this Easement. Grantee shall provide reasonable prior notice to Grantor before entering upon the Greenway Property which, except in the event of an emergency, shall not be less than three (3) business days. Grantee shall not interfere with Grantor's use and quiet enjoyment of the Greenway Property.

3.3. To prevent any activity on or use of the Greenway Property that is inconsistent with the purpose of this Easement.

3.4. To place a sign no larger than one (1) square foot at locations mutually approved by Grantor and Grantee to mark the edge of the Greenway Property and/or a series of boundary markers along the boundary of the Greenway Property or along the boundary of specific areas within the Property declaring that the Property is being preserved pursuant to a conservation easement held by Grantee and stating other information about Grantee and the Easement.

4. **Prohibited Activities and Uses.** The Greenway Property will be retained in its natural state, but subject to the permitted uses set forth in Section 5 below. Any activity on or use of the Greenway Property inconsistent with the purpose of the Easement is prohibited.

5. **Permitted Uses; Reserved Rights.** Grantor reserves the right to use the Greenway Property for all uses that are not inconsistent with the purpose of this Easement. Notwithstanding Section 4, the following activities are consistent with the purpose of this Easement and the right to carry out such activities or uses on the Greenway Property are expressly reserved by Grantor:

5.1 Installation of soft surface trails and crossings.

5.2. Installation of a roadway, stormwater facilities and utilities to access Division 17 of the Arborwood Plat/PBD.

5.3. Installation of a sewer main(s) and any related components to reach the Waste Water Treatment Plant located north of Division 17 or for other sewer service.

5.4 The placement of signs whose location, size, number and design do not significantly diminish the scenic character of the Property, to (i) state the preserved nature of the property, and (ii) to post the Property to control unauthorized entry or use.

5.5. The pruning, cutting down or other destruction or removal of trees or other plants in accordance with sound conservation management practices to control or prevent hazard, disease, fire, or the spread of invasive plants or to establish or enhance wildlife habitats.

5.6 Habitat restoration or enhancement activities on the Greenway Property to further the purpose of this Easement, so long as such activities are in accordance with sound conservation management practices.

5.7 Removal or other mitigation of potential hazards to people and personal property, such as cutting down live or dead trees that threaten roads or other structures and such as removing ivy or other invasive vegetation. Any such activity shall be conducted to minimize adverse impacts on the Conservation Values. The term "minimize" as used in this Easement shall mean taking actions to reduce physical impacts to the extent reasonably practical and economically proportionate under the circumstances then existing, *provided* that such actions are also proportionate to the Conservation Values affected by the use or activity in question.

5.8 Other activities reasonably necessary for development of the Arborwood Plat/PBD or activities necessary to protect health or safety, or that are actively required by and subject to compulsion of any governmental agency with authority to require such activity, *provided* that any such activity shall be conducted to minimize adverse impacts on the Conservation Values.

6. Adjustments of Greenway Boundaries. Grantor and Grantee acknowledge the boundaries between and areas comprising the Greenway Property and the adjoining development areas of the Arborwood Plat/PBD are based upon the best information and planning as of the effective date of this Easement, but that final boundaries and locations of the respective areas will change through additional site investigation and through final plat recording. Therefore, the boundaries, location, size and configuration of the Greenway Property and Grantor's adjoining development areas (and their corresponding legal descriptions) shall be adjusted (collectively, "Adjustment") as follows, so long as the Greenway Property is never less than 104 acres:

6.1 Part of Final Plat. An Adjustment shall occur to the extent shown in any final plat or other formal land division.

6.2 Request by Party. If Grantor or Grantee requests an Adjustment, then the other party shall reasonably approve the Adjustment so long as the newly-added area to the Greenway Property continues to fulfill the general purposes of this Easement and the newly-added area to the Grantor's development area is a logical extension of or benefits the remaining development areas.

The parties shall execute any lot line adjustments or undertake other measures, such as conveying deeds or other legal documents, as necessary, to revise the legal descriptions and ownership to conform to the Adjustment, i.e. to add and delete areas from the Greenway Property or development area as required by the Adjustment. Any individual Adjustment may be an exchange of areas equal or unequal in size, but the ultimate size of the Greenway Property shall not be less than 104 acres.

7. Grantee's Remedies.

7.1 Notice of Violation; Corrective Action; Remedies.

7.1.1 If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation. Where the violation involves injury to the Greenway Property resulting from any prohibited uses or activity, or any use or activity inconsistent with the purpose of this Easement, Grantee shall give written notice requiring the Grantor to restore the portion of the Greenway Property so injured.

7.1.2 If Grantor fails to cure the violation within thirty (30) days after receipt of the notice from Grantee, or if the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action in a court of competent jurisdiction to (1) enforce the terms of this Easement, (2) enjoin the violation, and/or (3) require the restoration of the Property to the condition that existed before the injury.

7.2 **Costs of Enforcement.** In the event Grantor or Grantee finds it necessary to bring an action at law or other proceeding against the other party to enforce or interpret any of the terms, covenants, or conditions of this Easement, the prevailing party in any such action or proceeding shall be paid all costs and reasonable attorneys' and consultants' fees (whether incurred at the trial, appellate or administrative level) by the other party and all such costs and attorneys' and consultants' fees shall be included in any judgment secured by such prevailing party.

7.3 **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Conservation Values or the Property resulting from causes beyond Grantor's control including, without limitation, fire, flood, storm and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Conservation Values or the Property resulting from such causes.

7.4 **Trespassers.** In the event the terms of this Easement are violated by acts of trespassers, Grantor agrees, at Grantee's option, to join in any suit, to assign Grantor's right of action to Grantee, for the purpose of pursuing enforcement action against the responsible parties. Grantor also reserves the right, independent of any action by Grantee under this Section, to pursue actions against trespassers.

7.5 **Limitation on Damages and Actions.** Notwithstanding any other provision of this Easement, Grantee shall have no right of action or remedy pertaining to any condition existing prior to the effective date of this Easement.

8. **Public Access.** Except as may be specifically provided for in the Easement, no right of physical access by the general public to any portion of the Property is conveyed or permitted by this Easement.

9. **Notice of Change of Ownership.** Grantor shall notify Grantee in writing of any change or conveyance of the ownership of the Property or any interest in it within ten (10) business days of such change or conveyance.

10. **Costs and Liabilities; Taxes.**

10.1 **Grantor's Responsibilities.** Until Grantor conveys fee title to the Greenway Property, Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation and maintenance of the Property, including the cost of any comprehensive general liability insurance coverage if maintained by Grantor. After Grantor conveys fee title to the Greenway Property to Grantee, Grantor shall be released of all responsibilities and shall have no costs or liabilities of any kind related to the ownership, operation and maintenance of the Greenway Property.

10.2 **Taxes Defined.** Until Grantor conveys fee title to the Greenway Property, Grantor shall pay before delinquency all taxes, assessments, fees and charges of any kind levied on or assessed against the Greenway Property by competent authority (collectively, "taxes"), including any taxes imposed upon or incurred as a result of this Easement. After Grantor conveys fee title to the Greenway Property to Grantee, Grantor shall be released of all responsibilities and shall have no costs or liabilities of any kind related to taxes, assessments, fees and charges of any kind levied on or assessed against the Greenway Property.

11. **Notices.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either delivered personally or sent by certified mail, postage prepaid, addressed as follows:

To Grantor: Jon Rose
19245 Tenth Avenue NE
Poulsbo, WA 98370-7456

To Grantee: Kitsap County
Department of Community Development
614 Division Street
Port Orchard, WA 98366

or to such other address as either party from time to time shall designate by written notice to the other. Notices shall be effective upon receipt.

12. **General Provisions.** The interpretation and construction of the Easement shall be governed by the laws of the State of Washington. This Easement may be amended only in writing signed by all owners of the Greenway Property and by Grantee or its successors and assigns. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Grantee to effect the purpose of this Easement, the policy and purpose of RCW 84.34.200-250 and RCW 64.04.130, as amended. The invalidity or unenforceability of any term or provision in the Easement shall not affect the validity or enforceability of any other term or provision in it. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement, all of which are merged into this

instrument. Time is of the essence. This Easement shall be binding upon, and inure to the benefit of, the parties to it and their respective heirs, personal representatives, successors and assigns.

13 **Counterparts; Recordation.** The Easement may be executed in any number of counterparts for the convenience of the parties, all of which, when taken together and after execution by all parties to it, shall constitute one and the same instrument. Grantor shall record this instrument in the official records of Kitsap County, Washington.

DATE: _____

DATE: _____

OPG Properties, LLC,
A Washington limited liability company

KITSAP COUNTY
BOARD OF COMMISSIONERS

Jon Rose, President

Charlotte Garrido, Chair

Steve Bauer, Commissioner

Josh Brown, Commissioner

ATTEST:

Opal Robertson
Clerk of the Board

Approved as to form by the County Prosecutor's
Office

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this _____ day of _____, 20____, before me personally appeared JON ROSE, to me known to be the President of OPG PROPERTIES, LLC, that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute and in fact executed said instrument on behalf of the company.

Given under my hand and official seal this _____ day of _____, 20__.

Type/Print Name: _____
Notary Public in and for the State of Washington
residing at: _____
My Commission expires: _____.

EXHIBIT A

Legal Description of 104 acre Greenway Property

[Need to insert legal just of the 104 acres]

ATTACHMENT H

SUMMARY OF TRAIL OWNERSHIP, CONSTRUCTION, MAINTENANCE AND PHASING

1. **Arborwood Regional Trail (see #1 on attached map)**
 - Final Ownership: Kitsap County
 - Final Maintenance: Kitsap County
 - Construction: OPG (for portion within Arborwood boundaries)
 - Construction Phasing: The paved regional trail will be built as each section of road is built within the Arborwood development. OPG will dedicate the trail once construction of the full trail is completed. Since the trail will be built in phases to correspond with the Arborwood Project phases, OPG in the interim will provide an easement for access and will perform maintenance for completed trail sections prior to OPG's dedication of title upon full completion. Throughout development of Arborwood, OPG to maintain north/south access availability and connection to existing trails on adjoining property to the west ("Option Property") through temporary connection via emergency access road, existing trails/logging roads, and/or the Waste Water Treatment Plant access road.

2. **Primary East/West Connector Trail between Arborwood Regional Trail and Option Property trails at north/south mid-point (see #2 on attached map)**
 - Final Ownership: Kitsap County
 - Final Maintenance: Kitsap County
 - Construction: OPG on Arborwood land; County on Option Property land
 - Construction Phasing: Paved connector to be constructed by OPG with Phase 1B (see phasing map attached as Attachment F). Trail area to be in a separate parcel dedicated to Kitsap County after alignment is known and trail constructed. Interim soft surface minimum-width trail connection to be made available by OPG through connections to existing trails/logging roads/Waste Water Treatment Plant access road.

3. **Greenway Trails (104 acre addition to Heritage Park)**
 - Final Ownership: Kitsap County
 - Final Maintenance: Kitsap County
 - Construction: County. If a trail is needed through this area for connection of neighborhoods, it would be built by OPG prior to dedication of park land.
 - Construction Phasing: Soft surface, minimum-width trails to be built as funding is available unless a trail is needed to connect neighborhood and built by OPG prior to dedication. As provided in Section 2.5 of the Agreement, the 104 acres of park land will initially be placed in a Conservation Easement. As the Arborwood project develops, the boundaries of this Conservation Easement may shift if agreed to by both County and OPG. Once it is determined there will be no additional changes to the boundaries, OPG will dedicate the land to Kitsap County.

4. **Arborwood Neighborhood Connector Trails (within the Arborwood Project)**

- Final Ownership: Homeowner association per CCRs
- Final Maintenance: Homeowner association per CCRs
- Construction: OPG
- Construction Phasing: With the development of each neighborhood within Arborwood



ARBORWOOD Kingston, Wa.



ATTACHMENT I

APPRAISAL OF 104-ACRE GREENWAY

Attached is the appraisal report prepared by Re♦Solve, Real Estate Appraisal, Counseling & Mediation, dated January 29, 2010, for the 104-acre Greenway establishing the following range of values, with the difference based on varied assumptions regarding the extent of wetlands and lot yield (summarized at page 12):

\$540,000 assuming 12 lots

\$910,000 assuming 14 lots

Pursuant to Section 6.2.4 of the Development Agreement, OPG may elect to take a credit for the value of the Greenway dedication in the form of prepaid park fees. *“Upon completion of the appraisal, the parties will compute the number of dwelling units for which park fees have been “prepaid” with the credit (i.e. dividing the total credit amount by the per unit impact fee rate in effect at the time the appraisal is completed).”* Even using the lower appraised value and assuming all Arborwood units were single family and none were multi-family, the prepaid credit would be for 1,099 units (*i.e.* \$450,000 ÷ \$491/unit single family park fee]. Consequently, OPG may elect to use a portion of this credit to fully pay for the 751 units authorized for Arborwood.

RESTRICTED REPORT

of

**104 ACRE ARBORWOOD PROPERTY
KINGSTON, WA**

as of

January 29, 2010

Prepared for

Elizabeth Wilson & Jon Rose
Olympic Property Group
19245 10th Ave NE
Poulsbo, WA 98370

Prepared by

Stephen Shapiro, MAI

RE•SOLVE

*Real Estate Appraisal, Counseling & Mediation
261 Madison Avenue South, Suite 102
Bainbridge Island, Washington 98110*

Ref. 10033

RE•SOLVE

GIBBONS & RIELY PLLC
Real Estate Appraisal, Counseling & Mediation
261 Madison Avenue South, Suite 102
Bainbridge, Washington 98110-2579

Stephen Shapiro, MAI
Direct Dial 206 855-1090
Email: sshapiro@realsolvesolve.com

January 29, 2010

Elizabeth Wilson & Jon Rose
Olympic Property Group
19245 10th Ave NE
Poulsbo, WA 98370

RE: 104 Acre Arborwood Property

Dear Ms. Wilson & Mr. Rose:

At your request, I have prepared the following appraisal consulting services involving the above referenced subject property. As instructed, I have provided a value range estimate for the subject based upon a desk analysis that did not include an on site inspection of the subject or any comparables. In arriving at the conclusions stated in this report I have relied upon materials provided by you as well as independent research. However, the valuation analysis that follows is considered to be preliminary in that it is based upon information that has not been investigated or confirmed to a degree that would be typical of a complete appraisal.

This report has been performed in accordance with the Uniform Standards of Professional Appraisal Practice, which defines appraisal consulting as the process of developing an analysis, recommendation or opinion to solve a problem, where an opinion of value is a component of the analysis leading to the assignment results, but does not have an appraisal as its primary purpose. Expressing a value opinion as a range is permissible.

Identity of Subject Property

The subject of this appraisal includes portions of Kitsap County tax parcels 352702-2-025-2009 and 022602-1-016-2002 as illustrated on the map on page 4.

Purpose of Appraisal Consultation

The purpose of this report is to establish a range of market value for the subject property. The term "Market Value" is defined as:

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date, and the passing of title from seller to the buyer under conditions whereby:

- a. the buyer and seller are typically motivated;*
- b. both parties are well informed or well advised, and acting in what they consider their own best interests;*
- c. a reasonable time is allowed for exposure in the open market;*
- d. payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and*
- e. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."*

Source: Office of the Comptroller of the Currency under 12 CFR, Part 34, Subpart C-Appraisals, 34.42 Definitions [f].

Property Rights Appraised

The property right appraised is the fee simple interest in the entire subject.

Intended Use/User of Appraisal

The intended users are the clients, Elizabeth Wilson and Jon Rose of Olympic Property Group, and their authorized associates, employees, representatives or agents. This report will be used by OPG to facilitate a potential real estate transaction with Kitsap County.

Scope of Appraisal

The scope of work performed in this appraisal consultation is in compliance with the specific guidelines of the Uniform Standards of Professional Appraisal Practice (USPAP) for such services. Specifically, it is intended to provide a range of value based upon a preliminary investigation of the subject. While this report does provide value opinions, it does not have a complete appraisal as its intended purpose.

Report Type

This analysis is presented in a reporting format that meets the requirements for a *restricted* report under USPAP guidelines. Discussions and analysis are abbreviated in this document, with supporting data retained in my files for reference.

Location and Description of Subject Property

The subject is a vacant land parcel in an irregular shape that consists of 104 acres according to the owner. It is located in the northern portion of the Kitsap Peninsula within a few miles of Kingston and Poulsbo. Access is from paved South Kingston Road and from interior unpaved logging roads.

Zoning

The subject falls within Kitsap County's Rural Residential (RR) zone. According to the Municipal Code this zone promotes low-density residential development consistent with rural character. The minimum lot size is 5 acres.

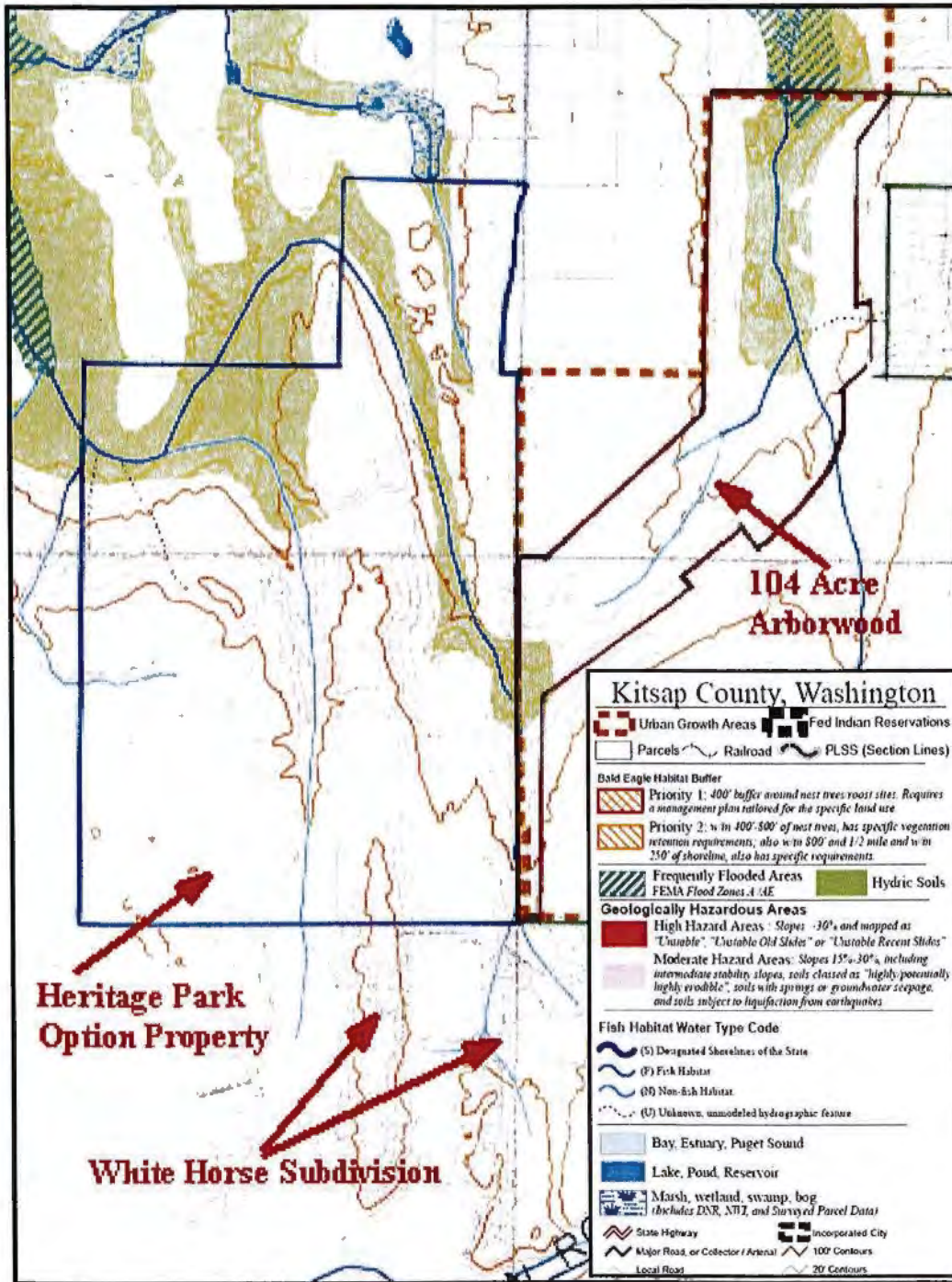
Utilities

The subject property has no established utilities. Power would need to be extended from the southern portion of the property where it is presently available from the White Horse development project and South Kingston Road. The subject property is adjacent to a Kitsap County sewage treatment plant and also falls within the Kingston Urban Growth Area. Therefore it qualifies for extension of sewer service. In practical terms, however, the high cost of providing sewer infrastructure is not likely to be justified for the small number of lots that could be developed on the subject owing to significant critical areas impacts that will limit its development potential. As a result, waste would be handled through individual on site septic systems for each single family residence that might be developed on the property. Water would be provided by on site wells.

Critical Areas

The Kitsap County Building Limitations map on the following page identifies areas with environmentally sensitive conditions that are not conducive to development and may also require buffer areas. The northern and central areas of the property are impacted by Grover's Creek, which is designated as fish habitat and requires a buffer of 150'. A non-fish habitat tributary of that creek runs down the center of the property in a westerly direction and requires a 50' buffer. The green portions of the map indicate hydric soils that are often associated with wetlands. Although there is only a small indication of wetlands on the northern portion of the property shown on the map, I am aware that other areas of wetlands have been identified on the property. The gray area on the map denotes moderate geologically hazardous conditions due to slopes with a grade of 15%-30%. Here again, depending upon the steepness and soils conditions this may pose limits to development.

The only definitive means of determining the impacts of critical areas upon development potential is to undergo the land use permitting process. While the subject would certainly face constraints to development including buffers, Kitsap County does offer some means to mitigate these impacts including buffer reduction and buffer averaging. Determining how these might apply to the subject is well beyond the scope of this assignment (or even a typical appraisal assignment). However, a good indication as to the development potential of the subject is provided by the White Horse plat that borders to the south. As shown on the building limitations map this subdivision does not have any fish bearing streams or indications of hydric soils. Conversely, it does have non-fish streams and moderate slopes, which are very similar to the site conditions over southwestern portion of the subject. This plat was developed per the guidelines of a Performance Based Development (PBD) allowable under the Kitsap County Code, and this is an appropriate option for the subject as well based upon discussion with Steve Heacock, environmental planner with the Kitsap County Department of Community Development. The purpose and standards for a PBD as stipulated by the county code are noted below:



KITSAP COUNTY BUILDING LIMITATIONS MAP

To allow flexibility in design and creative site planning, while providing for the orderly development of the county. A performance based development (PBD) is to allow for the use of lot clustering in order to preserve open space, encourage the creation of suitable buffers between differing types of development, facilitate the residential densities allowed by the zone, provide for increased efficiency in the layout of the streets, utilities and other public improvements and to encourage the use of low-impact development techniques and other creative designs for the development of land.

Standard regulations that may be modified through the use of a PBD include:

- A. Lot size.
- B. Lot width and depth.
- C. Structure height (only within designated urban growth areas).
- D. Setbacks (front, side and rear yards).

Minimum and maximum densities and allowed uses authorized by the zone shall not be subject to modification through the use of a PBD.

There are several requirements to provide for open space within the PBD area. These are noted as follow:

Recreational Open Space. All residential PBDs within urban zones shall provide a developed recreational area that meets the following requirements:

1. A contiguous area that is a minimum of five percent of the gross acreage of the subject property(s) (excluding perimeter screening buffers, critical areas and critical area buffers). No area shall be calculated as recreational open space if less than five hundred square feet in size, except if the area provides a reasonable functional or aesthetic benefit to the residents of the PBD. Said area shall meet the following additional requirements:

- a. Developed as an open grass field or a natural area (not inside perimeter buffers, critical areas or their buffers);
 - b. Owned in common and/or available for use by all residents of the PBD; and
 - c. A provision made by the covenants for perpetual maintenance.
2. A developed active recreation amenity(s) consistent with the number of units/lots contained within the PBD. Amenities shall be provided as follows:
- a. Developments of zero to nineteen lots/units are not required to have such an amenity;
 - b. For developments with greater than nineteen lots or units, one amenity shall be provided for every twenty lots/units within the development. Required amenities shall be sized to accommodate three hundred ninety square feet per lot/unit;
 - c. Amenities shall be centrally located within the development in clearly visible areas on property suitable for such development. Amenities may be located in other areas of the development if directly linked with a regional trail system or other public park facility;
 - d. Based upon topographical or site design characteristics of the subject property(s), amenities may be combined (while continuing to meet the overall square footage requirements established above) if the combination provides for increased benefit to all residents of the PBD;
 - e. Amenities may be located within, and be calculated towards, the recreational open space area if contiguous;
 - f. An athletic field with a minimum size of one hundred twenty yards long and sixty yards wide or swimming pool shall count as two amenities;
 - g. An equestrian development or similar theme community may be provided in lieu of other amenities;
 - h. Owned in common and available for use by all residents of the PBD;
 - i. The active recreational amenity(s) shall be located on five percent grade or less, except if a greater grade is necessary for the activities common to the amenity, e.g., skate park, trails; and

j. Written provisions or agreement for perpetual maintenance by the homeowners' association or a public agency willing to assume ownership and maintenance.

3. In rural zones, common open space shall be no less than fifty percent of the total site area. All open space, other than those areas needed for utilities or other infrastructure, shall be retained in native vegetation unless the PBD specifically provides for an alternative use. PBDs in rural zones shall be exempt from the requirements for contiguous developed recreation space as contained in subsection (C)(1) of this section, but shall be subject to the active recreational area requirements of subsection (C)(2) of this section.

Mr. Heacock indicated that clustered development in the southwestern portion of the property would avoid the most significant critical areas and would have some prospects of being approved by the county, although the actual area of development would likely be only a small portion of the total subject. The method for calculating the extent of potential development density was described by Dennis Ost of the Planning Department. These steps are detailed as follows:

- Determine the area of all critical areas and subtract this from the total land area to determine the development density calculation area. Buffer areas would not be subtracted as these are allowed to contribute to the development density.
- Divide the development density calculation area by the minimum lot size permitted within the existing zone. In this case this is one dwelling unit per five acres. This results in the maximum potential lot yield.
- Determine the minimum lot size necessary to facilitate single family development. Where sewer is not available (as is the case for the subject because it is outside the UGA) lots of at least half an acre are typically required to accommodate septic systems. Multiply the number of potential lots by the minimum lot size to determine the minimum required cluster area. Development in this area needs to be outside all critical areas and buffers.
- In order to determine whether the maximum allowable lot yield can be utilized it is necessary to deduct any open space requirements for recreational purposes (for subdivisions greater than 19 lots) and common open space in rural areas. This is deducted from the useable area calculation noted above. It should be noted that PBD's in rural zones are not required to deduct the 5% area but are required to provide recreational amenities within 50% common open space area. The required open space area may include critical areas and buffers. If the resulting area is less than the cluster area required to accommodate the maximum potential lot yield then the lot yield would need to be reduced.
- Calculate the area required for roads and detention ponds, which need to be placed outside all critical areas and buffers, and deduct this from the cluster area. Once again, this may further reduce the potential lot yield.

Highest and Best Use

"Highest & Best Use" is defined by The Appraisal Institute as:

"The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible and that results in the highest value. The four criteria the highest and best use must meet are: legal permissibility, physical possibility, financial feasibility and maximum profitability."

Source: The Dictionary of Real Estate Appraisal, Third Edition, Copyright 1993, published by the Appraisal Institute.

The highest and best use analysis provides the foundation for a value conclusion by identifying the specific market position of a subject and thereby specifying appropriate market comparisons for it, as well as the relevant approaches to value. Legally feasible uses are guided by the prevailing zone, which is primarily single family residential development within the RR zone.

With regard to physical feasibility the subject has access to adjacent roads and electricity that would need to be extended onto the site. Wells and septic systems would be created on site. The most significant potential physical limitation is critical areas; however, there appears to be useable land in the southwestern portion of the property to accommodate clustered development. In terms of economic feasibility the property is located in an attractive area with strong historic demand for single family development. Even considering the current recessionary economic conditions there is demonstrated demand for single family lots in this area (albeit at a reduced absorption rate from pre-recession years).

To conclude, the maximally productive highest and best use of the subject is for single family residential development at a density that would be allowed given critical areas constraints and that is in accord with market demand.

Preliminary Valuation Analysis

The valuation analysis that follows is considered to be preliminary in that it is based upon information that has not been investigated or confirmed to a degree that would be typical of a complete appraisal. Two development scenarios are considered: one that considers somewhat optimistic conditions and one that is more conservative in its outlook.

Development Density Calculation

The analysis begins by determining the subject's development potential. As previously discussed, extensive critical areas covering the subject would almost certainly result in single family development under the guidelines of the Performance Based Development section of the Kitsap County Municipal Code. I have performed analyses of the development density under separate scenarios of 30% and 40% encumbrance of critical areas.

Scenario 1

Deducting the total acreage of all critical areas from the gross area of the property results in the Development Density Calculation Area. Based upon my perusal of the Kitsap County Buildings Limitations Map as well as discussion with county planners I have estimated the extent of critical areas at 30% in Scenario 1, which does not include buffers. This results in 72.8 acres for purposes of the density calculation.

The next step is to divide this area by the minimum lot size allowed in the RR zone, which is 5 acres. This results in a rounded estimate of 14 development lots. The allowable size of the individual lots is a function of how much developable land is available outside critical areas and buffers. Development must also occur outside of any open space required by the PBD. However, it should be noted that critical areas and buffers may be included in the open space area (therefore the developable area calculation does not deduct the sum of critical areas, buffers and required open space).

In this scenario I have estimated the amount of the subject impacted by critical areas and buffers at 60% of the total area. Thus, the gross developable area outside critical areas and buffers is estimated at around 41.6 acres. The required open space allocation for rural development is 50%, and therefore the gross developable area outside the open space is estimated at 52 acres. The applied estimate of gross developable area would be based upon the smaller of these calculations.

The gross developable area must obviously be at least as large as the area needed to facilitate the clustered lot development. Typically a developer is motivated to create larger rather than smaller lots since they can usually be sold for more. Thus, the entire cluster area including land necessary for infrastructure such as roads and detention ponds will generally be close to the size of the developable area. (Although sometimes this may not be possible if the developable area is divided into small segments scattered around the property.) In this instance the developable area is all more or less contiguous on the southern portion of the property. Allowing for 14 lots at 3 acres each requires around 42 acres. Adding 25% to accommodate infrastructure brings the total to around 52.5 acres. Since this is more or less the same size as the available developable area of 52 acres it is therefore considered to be a reasonable development scenario for purposes of this analysis.

The development potential calculation under Scenario 1 is summarized in the table that follows.

<u>Scenario I - Development Potential Calculation</u>	
Total Subject Area	104.00ac
<u>30% Critical Areas</u>	<u>31.20ac</u>
Development Density Calculation Area	72.80ac
Max Potential PBD Lot Yield @ 5ac Min Lot Size	14 Lots
Total Subject Area	104.00ac
<u>60% Critical Areas Plus Buffers</u>	<u>62.40ac</u>
Gross Developable Area Outside CA & Buffer	41.60ac
Total Subject Area	104.00ac
<u>50% Open Space Area (Can be CA & Buffer)</u>	<u>52.00ac</u>
Gross Developable Area Outside Open Space	52.00ac
Gross Developable Area is the Smaller Number and Must be Larger than Total Required Cluster Area	52.00ac
Min Required Cluster Area @ 3.0ac Min Lot Size	42.00ac
<u>25% Required for Roads and Detention Ponds</u>	<u>10.50ac</u>
Total Required Cluster Area	52.50ac

Scenario II

In this scenario I have estimated the extent of critical areas at 40%, which does not include buffers. This results in 62.4 acres for purposes of the density calculation. The next step is to divide this area by the minimum lot size allowed in the RR zone, which is 5 acres. This results in a maximum estimate of 12 potential development lots.

In this instance I have estimated the amount of the subject impacted by critical areas and estimated buffers at 80% of the total area. Thus, the gross developable area outside critical areas and buffers is estimated at around 20.8 acres. The required open space allocation for rural development is 50%, and therefore the gross developable area outside the open space is estimated at 52 acres. The applied estimate of gross developable area would be based upon the smaller of these calculations.

In this instance the area available for development is around 21 acres and therefore the acreage identified for clustered development (including roads and detention ponds) cannot exceed this. As a result the individual lots would need to average around 1.4 acres while also allowing an additional 25% for roads under this scenario.

The development potential calculation under Scenario II is summarized in the table that follows:

<u>Scenario II - Development Potential Calculation</u>	
Total Subject Area	104.00ac
<u>40% Critical Areas</u>	<u>41.60ac</u>
Development Density Calculation Area	62.40ac
Max Potential PBD Lot Yield @ 5ac Min Lot Size	12 Lots
Total Subject Area	104.00ac
<u>80% Critical Areas Plus Buffers</u>	<u>83.20ac</u>
Gross Developable Area Outside CA & Buffer	20.80ac
Total Subject Area	104.00ac
<u>50% Open Space Area (Can be CA & Buffer)</u>	<u>52.00ac</u>
Gross Developable Area Outside Open Space	52.00ac
Gross Developable Area is the Smaller Number and Must be Larger than Total Required Cluster Area	20.80ac
Min Required Cluster Area @ 1.40ac Min Lot Size	16.80ac
<u>25% Required for Roads and Detention Ponds</u>	<u>4.20ac</u>
Total Required Cluster Area	21.00ac

Direct Development Approach Analysis

The most typical valuation methodology is the direct sales comparison approach for the entire subject property. However, the viability of the result is only as good as the comparable data that is available. Perusal of the record of sales in Kitsap County did not result in suitable sales comparables for the entire subject.

An alternate approach that is very common is the development approach (also known as subdivision analysis). While this can be performed through both a direct analysis and a discounted cash flow analysis, the latter is only useful when the analysis period extends over a relatively long time. In this instance the small number of available development lots does not warrant a discounted cash flow analysis.

The typical "Development Approach" assumes a single transaction by a developer whose estimate of total value is based upon his projected value through the sale of finished lots minus all costs and profit. Based upon the results of the development density estimates I have performed valuation analyses for a 14 lot subdivision and a 12 lot subdivision.

Finished Lot Prices

The Development Approach begins by establishing at what price the subject property's lots would sell into the market place. At the end of this report I have provided summaries of sales in North Kitsap County from 2007, 2008 and 2009 as well as current listings. The data is for vacant land up to 7 acres that had no potential for further subdivision. In addition, I have also provided a summary of land sales from the White Horse plat to the south of the subject. These transactions primarily occurred at the height of the real estate boom in 2005 and 2006, and therefore the prices are much higher than is evident in the current market. Interestingly, the few more current sales are at much lower prices. Based upon this data, and in particular the sales of 1-3 acre parcels in 2009, I have concluded with an average lot price for the subject's development lots at \$150,000 under scenario I and \$120,000 under scenario II.

Costs

From the potential gross revenue derived above all relevant costs must be deducted. These include all costs associated with marketing, development and entrepreneurial profit.

Development Costs

Development costs include the soft costs associated with entitlement including permitting, surveying, engineering and legal services necessary to create a subdivision. In this instance, a critical areas delineation would need to be performed. I have estimated the total soft costs at \$5,000/lot under both scenarios.

Hard costs cover the provision of necessary infrastructure, which is primarily clearing grading, roads, electrical lines and detention ponds. Provision of water and septic systems are not included as they would be part of the home improvements. I have estimated the total hard costs at \$25,000/lot under both scenarios. A typical contingency for hard and soft development costs is 10%, which is intended as hedge against cost over runs. This is included in both development cost summaries.

An additional cost pertinent to the subject is the requirement to remove it from forestland status, which presently affords the subject an assessed value well below market and resulting low property taxes. According to the Kitsap County Assessor's office in the event the subject were to be sold to a private individual who removed the property from that status compensating back taxes would be due for up to the preceding ten years. This would be calculated based upon current land value assessments and levy rates and would be extended back for ten years. I have estimated this cost at \$52,500 under Scenario I and \$45,000 under Scenario II.

Marketing Costs

Marketing costs assume a real estate brokerage commission of 10%, which is the market rate for unimproved land parcels, and closing costs (including excise tax) of 2%. The fees selected in this analysis are deemed sufficient to cover all costs of marketing, from production of brochures (the responsibility of the listing broker), to title costs and excise tax.

Developer's Margin & Profit

A typical target for margin and profit is between 15% and 30%. Selection of an appropriate rate is largely a function of risk assessment, which may be affected by location, the presence of critical areas, proximity to infrastructure, the state of the economy and the size of the project with respect to potential long term holding costs. While the subject is in a desirable location, it does face some challenges with respect to critical areas and a recessionary economy that will tend to slow the rate of absorption and increase holding costs. On the other hand, even considering the current recessionary market conditions the small number of development lots is unlikely to result in significant holding costs. With these factors in mind, I have selected a profit margin of 20% under both development scenarios. Although Scenario II has fewer lots than Scenario I, the difference is not so significant that it would have much impact to the developer's risk of holding costs.

Conclusion

The development approach summaries for both scenarios are provided on the following pages. Scenario I shows a value estimate of \$910,000 for the 14 unit development or \$65,000/lot. Scenario II shows a value estimate of \$540,000 for the 12 unit development or \$45,000/lot. This is a significant variance in value given the rather small difference in lot yield between the two scenarios. However, it is explained by the benefit of the two extra lots available in Scenario I as well as the fact that since the average lot size in Scenario I is twice as large as those in Scenario II the former are expected to sell for a 25% premium.

Summary and Conclusion

Values for the subject have been estimated under two scenarios. Under Scenario I the subject is presumed to have 30% critical area coverage and an additional 30% buffer requirement with the resulting potential for clustered development of 14 lots averaging 3 acres and the remainder of the subject dedicated to open space. Under Scenario II the subject is presumed to have 40% critical area coverage and an additional 40% buffer requirement with the resulting potential for clustered development of 12 lots averaging 1.4 acres and the remainder of the subject dedicated to open space. The results are noted as follows:

DIRECT SUBDIVISION ANALYSIS @ 14 LOTS	\$910,000 (\$65,000/lot)
DIRECT SUBDIVISION ANALYSIS @ 12 LOTS	\$540,000 (\$45,000/lot)

The difference in the value noted above is the result of varying assumptions regarding the extent of wetlands and allowable lot yield that might be entitled. This is to be considered a preliminary analysis that does not fulfill the standards typical of a complete appraisal. Further, if additional investigation into the subject's condition shows significantly different attributes than are assumed here it is possible that a more credible conclusion could be outside this value range.

104 ACRE ARBORWOOD PROPERTY - DEVELOPMENT APPROACH				
Single Family Residential Development				
Single Family Residential Dev Lots	14 lots	3.0ac Lot Avg	\$150,000/Lot Avg	
Total Retail Sell-Out Price				\$2,100,000
Development Costs				
		<u>Per Lot</u>	<u>Total</u>	
Subdivision Soft Costs:		\$5,000	\$70,000	
Hard Costs (Roads & Electricity)		\$25,000	\$350,000	
Contingency: Hard & Soft Costs	10.00%	\$3,000	\$42,000	
Recovered Property Taxes from altered Forestland Status Total Tax Liability		\$3,750	\$52,500	
Marketing Costs				
		<u>Per Lot</u>	<u>Total</u>	
Commissions	10.0%	\$15,000	\$210,000	
Closing Costs	2.0%	\$3,000	42,000	
Subtotal Selling Costs	12.0%	\$18,000	\$252,000	
Developer's Margin & Profit	20.00%	\$30,000	\$420,000	
All Cost and Profit	56.5%	\$84,750	\$1,186,500	
Property Value to Developer	43.5%	\$65,250		\$913,500
Property Value Rounded				\$910,000
	14 lots			\$65,000/lot

CURRENT LISTINGS SUMMARY TABLE				
NORTH KITSAP COUNTY				
Location	# Listings	List Price Range		
<u>Less Than 1 Acre</u>				
Hansville	3	\$129,000	to	\$159,000
Kingston	30	\$45,000	to	\$399,000
Poulsbo	17	\$35,000	to	\$235,000
Suquamish	16	\$28,500	to	\$775,000
Indianola	<u>8</u>	\$72,000	to	\$495,000
	74			
<u>1-3 Acres</u>				
Hansville	3	\$129,000	to	\$205,000
Kingston	8	\$68,000	to	\$249,000
Poulsbo	17	\$59,000	to	\$380,000
Indianola	<u>3</u>	\$99,000	to	\$399,000
	31			
<u>3-7 Acres</u>				
Hansville	7	\$155,000	to	\$195,000
Kingston	13	\$119,900	to	\$395,000
Poulsbo	15	\$159,900	to	\$244,000
Indianola	<u>4</u>	\$149,000	to	\$750,000
	39			

WHITE HORSE SALES COMPARISON SUMMARY TABLE NORTH KITSAP COUNTY					
No.	Address	Location	Area	Sale Date	Sale Price
1	23188 Panorama Pl	White Horse	0.57 ac	Sep-05	\$170,000
2	23176 Panorama Pl	White Horse	0.42 ac	Jul-05	\$175,000
3	23164 Panorama Pl	White Horse	0.43 ac	Jan-06	\$200,000
4	23152 Panorama Pl	White Horse	0.42 ac	Nov-05	\$200,000
5	23141 Panorama Pl	White Horse	0.57 ac	May-05	\$180,000
6	23153 Panorama Pl	White Horse	0.42 ac	Nov-06	\$236,481
7	23165 Panorama Pl	White Horse	0.40 ac	Mar-05	\$180,000
8	23189 Panorama Pl	White Horse	0.37 ac	Mar-05	\$160,000
9	23178 Aslan Pl	White Horse	0.40 ac	May-05	\$170,000
10	23178 Aslan Pl	White Horse	0.27 ac	Aug-09	\$99,000
11	23166 Aslan Pl	White Horse	0.40 ac	Jan-07	\$214,000
12	23154 Aslan Pl	White Horse	0.41 ac	Mar-06	\$210,000
13	23131 Aslan Pl	White Horse	0.69 ac	Sep-06	\$220,000
14	23155 Aslan Pl	White Horse	0.50 ac	Sep-07	\$199,000
15	23143 Aslan Pl	White Horse	0.76 ac	Feb-09	\$82,000
16	9171 White Horse Dr	White Horse	0.72 ac	Aug-06	\$195,000
17	22900 Singingwood Pl	White Horse	0.95 ac	Aug-05	\$160,000
18	22920 Singingwood Pl	White Horse	0.65 ac	Aug-05	\$165,000
19	22941 Singingwood Pl	White Horse	0.56 ac	Apr-05	\$166,250
20	22921 Singingwood Pl	White Horse	0.55 ac	Oct-07	\$180,000
21	22901 Singingwood Pl	White Horse	0.64 ac	Mar-05	\$185,000
22	22861 Singingwood Pl	White Horse	0.60 ac	Dec-05	\$225,000
23	22821 Singingwood Pl	White Horse	0.61 ac	Apr-05	\$190,000
24	22801 Singingwood Pl	White Horse	0.47 ac	Apr-05	\$185,250
25	22781 Singingwood Pl	White Horse	0.53 ac	Mar-05	\$190,000
26	22761 Singingwood Pl	White Horse	0.74 ac	Mar-05	\$210,000
27	22741 Singingwood Pl	White Horse	1.65 ac	Aug-07	\$190,000
28	22721 Singingwood Pl	White Horse	0.73 ac	Aug-05	\$200,000
29	22701 Singingwood Pl	White Horse	0.78 ac	Aug-06	\$252,196
30	22681 Singingwood Pl	White Horse	2.22 ac	Aug-05	\$280,000
31	9300 White Horse Dr	White Horse	0.90 ac	Aug-06	\$200,000
32	22923 Belvedere Pl	White Horse	0.46 ac	Jun-07	\$230,000
33	22903 Belvedere Pl	White Horse	0.83 ac	Aug-09	\$150,000
34	22922 Belvedere Pl	White Horse	0.68 ac	Apr-05	\$280,000
35	22902 Belvedere Pl	White Horse	0.53 ac	Apr-05	\$280,000
36	22882 Tranquility Pl	White Horse	1.37 ac	Mar-05	\$294,500
37	22843 Tranquility Pl	White Horse	1.06 ac	Jun-05	\$220,000
38	22842 Tranquility Pl	White Horse	0.66 ac	Nov-09	\$95,000
39	22822 Tranquility Pl	White Horse	0.64 ac	May-05	\$245,000
40	22803 Tranquility Pl	White Horse	0.67 ac	Apr-05	\$235,000
41	22783 Tranquility Pl	White Horse	0.52 ac	Dec-05	\$235,000
42	22763 Tranquility Pl	White Horse	0.63 ac	Mar-05	\$200,000
43	22762 Tranquility Pl	White Horse	0.69 ac	May-05	\$275,000
44	22742 Tranquility Pl	White Horse	0.81 ac	Mar-07	\$325,000
45	22745 Acrewood Pl	White Horse	0.66 ac	May-05	\$190,000
46	22785 Acrewood Pl	White Horse	0.50 ac	Apr-05	\$175,750

**2009 LAND SALES COMPARISON SUMMARY TABLE
NORTH KITSAP COUNTY**

No.	Address	Location	Area	View	Sale Date	Sale Price
<u>Less Than 1 Acre</u>						
1	724 Harrison St	Poulsbo	0.24 ac	None	Nov-09	\$109,800
2	37862 NE Bay St	Hansville	0.22 ac	Bay, Mt	Sep-09	\$52,500
3	5982 NE Spruce Dr	Shorewood	0.35 ac	None	Aug-09	\$37,500
4	37949 Brandt Rd	Driftwood Key	0.22 ac	None	Sep-09	\$32,500
5	5123 NE Cedar Ln	Driftwood Key	0.26 ac	None	Sep-09	\$10,000
6	XXX Angelina Ave	Suquamish	0.29 ac	Sound, Mt	Feb-09	\$139,500
7	6457 Geneva St	Suquamish	0.21 ac	None	Oct-09	\$85,000
8	20665 Kingston St	Indianola	0.39 ac	None	Jan-09	\$127,000
9	XXX Harris Ave	Indianola	0.53 ac	Partial Sound	Dec-09	\$92,000
10	XXX Dewberry Rd	Indianola	0.27 ac	None	Aug-09	\$99,000
11	20888 President Pt Rd	President Pt	0.81 ac	Waterfront Sound	Nov-09	\$170,000
12	21045 President Pt Rd	President Pt	0.29 ac	Sound, Mt	Jul-09	\$115,000
13	xxx Kinman Rd	Poulsbo	1.30 ac	Bay, Mt	Feb-09	\$58,550
14	XXX NE Shore Dr	Indianola	1.03 ac	Sound, Mt	Jun-09	\$175,000
<u>1-3 Acres</u>						
15	24020 Sawdust hillRd	Poulsbo	2.85 ac	None	May-09	\$144,000
16	xxx Larms Ln	Poulsbo	2.49 ac	None	Dec-09	\$135,000
17	21322 Stottlemeyer Rd	Poulsbo	1.90 ac	None	Jul-09	\$130,000
18	22730 Clear Creek Rd	FinnHill	2.67 ac	None	Oct-09	\$142,000
<u>3-7 Acres</u>						
19	xxx Keith Hill Ave	Poulsbo	5.00 ac	None	Feb-09	\$159,000
20	21200 Feather Ridge Ln	Poulsbo	4.65 ac	Mt	Sep-09	\$190,000
21	24040 Sawdust hillRd	Poulsbo	5.00 ac	None	May-09	\$179,000
22	xxx Keith Hill Ave	Poulsbo	5.00 ac	None	Jan-09	\$159,000
23	xxx Thompson Rd	Poulsbo	5.00 ac	None	Dec-09	\$190,000
24	xxx Clear Creek Rd	FinnHill	7.27 ac	None	Sep-09	\$147,000
25	xxx Klabo Rd	Kingston	4.99 ac	None	Dec-09	\$140,000
26	xxx Buck Lake Rd	Hansville	5.00 ac	None	Dec-09	\$165,000

**2008 LAND SALES COMPARISON SUMMARY TABLE
NORTH KITSAP COUNTY**

No.	Address	Location	Area	View	Sale Date	Sale Price
<u>Less Than 1 Acre</u>						
1	xxx Puget St	Indianola	0.34 ac	None	May-08	\$45,000
2	xxx Kingston St	Indianola	0.39 ac	None	Apr-08	\$122,000
3	24665 Taree Dr	Kingston	0.30 ac	Sound, Mt	Sep-08	\$222,000
4	20423 Miller Bay Rd	Kingston	0.95 ac	Partial Sound	Jul-08	\$141,000
5	Lot 30 Sherlind Rd	Hansville	0.25 ac	None	Apr-08	\$49,500
6	39175 Killarney Ln	Hansville	0.43 ac	None	Sep-08	\$80,000
7	Lot 42 Sherlind	Hansville	0.25 ac	Sound, Mt	Dec-08	\$46,000
8	4972 Hemlock Ln	Driftwood Key	0.24 ac	None	Nov-08	\$43,000
9	xxx Jefferson Beach Rd	Kingston	0.45 ac	None	Jan-08	\$95,000
10	37441 Olympic View Rd	Driftwood Key	0.33 ac	Sound, Mt	May-08	\$90,000
11	xxx Hemlock Ln	Driftwood Key	0.28 ac	Sound, Mt	May-08	\$87,500
12	xxx Hemlock Ln	Driftwood Key	0.28 ac	None	Jan-08	\$66,000
13	17008 Pearson Way	Poulsbo	0.33 ac	Sound, Mt	Oct-08	\$130,000
14	23984 Vinland Ct	Finn Hill	0.81 ac	Sound, Mt	Feb-08	\$150,000
15	Lot 71 President Pt Rd	President Point	0.67 ac	Sound, Mt	Apr-08	\$150,000
16	26645 Canalta Way	Poulsbo	0.33 ac	None	Sep-08	\$47,500
17	39175 Killarney Ln	Hansville	0.43 ac	None	Sep-08	\$80,000
18	Lot 42 Sherlind	Hansville	0.25 ac	Sound, Mt	Dec-08	\$46,000
19	4972 Hemlock Ln	Driftwood Key	0.24 ac	None	Nov-08	\$43,000
20	xxx Jefferson Beach Rd	Kingston	0.45 ac	None	Jan-08	\$95,000
21	37441 Olympic View Rd	Driftwood Key	0.33 ac	Sound, Mt	May-08	\$90,000
22	xxx Hemlock Ln	Driftwood Key	0.28 ac	Sound, Mt	May-08	\$87,500
23	xxx Hemlock Ln	Driftwood Key	0.28 ac	None	Jan-08	\$66,000
24	2257 Thistle Cr	Poulsbo	0.19 ac	None	Jan-08	\$110,000
<u>1-3 Acres</u>						
25	6290 Lincoln Rd	Poulsbo	2.13 ac	None	Apr-08	\$120,000
26	xxx Shore Dr	Indianola	1.85 ac	Partial Sound	Feb-08	\$150,000
27	xxx Little Boston Rd	Kingston	2.64 ac	None	Sep-08	\$109,900
28	1/2 mi off SR 104	Kingston	2.50 ac	None	Jul-08	\$150,000
29	xxx President Pt Rd	President Pt	1.37 ac	None	May-08	\$125,000
30	xxx Seminole Rd	Poulsbo	2.29 ac	None	Apr-08	\$115,500
31	16976 SR 305	Poulsbo	1.00 ac	None	Mar-08	\$128,000
32	xxx Coleman Rd	Poulsbo	2.39 ac	Partial Sound, Mt	Mar-08	\$170,000
33	xxx SR 308	Poulsbo	1.53 ac	None	Sep-08	\$112,000
<u>3-7 Acres</u>						
34	Lot 16 Keith Hill Rd	Poulsbo	5.00 ac	None	Apr-08	\$220,000
35	Lot 4 Pimlico Rd	Poulsbo	5.00 ac	None	Sep-08	\$192,000
36	Lot 1 Keith Hill Rd	Poulsbo	5.00 ac	None	Dec-08	\$159,900
37	xxx Stottlemeyer Rd	Poulsbo	2.50 ac	None	Jan-00	\$200,000
38	Lot 1 Pimlico Rd	Poulsbo	5.00 ac	None	Feb-08	\$245,000
39	Lot 2 Pimlico Rd	Poulsbo	5.00 ac	None	Mar-08	\$245,000

2007 LAND SALES COMPARISON SUMMARY TABLE
NORTH KITSAP COUNTY

No.	Address	Location	Area	View	Sale Date	Sale Price
<i>Less Than 1 Acre</i>						
1	xxx Island Lake Rd	Poulsbo	0.33 ac	None	Sep-07	\$110,000
2	25995 Circle Dr	Poulsbo	0.24 ac	None	Oct-07	\$70,000
3	4296 SR 104	Poulsbo	0.68 ac	Partial Sound, Mt	May-07	\$135,000
4	xxx Viking Way	Poulsbo	0.98 ac	None	Sep-07	\$117,500
5	26338 Edgewater Pl	Poulsbo	0.41 ac	None	Mar-07	\$59,500
6	4272 SR 104	Poulsbo	0.68 ac	Partial Sound, Mt	May-07	\$135,000
7	16836 SR 305	Poulsbo	0.63 ac	None	Apr-07	\$78,000
8	123 11th Ave	Poulsbo	0.28 ac	Sound, Mt	May-07	\$120,000
9	16 Evergreen St	Indianola	0.22 ac	None	Apr-07	\$116,000
10	1 Wavecrest Ave	Indianola	0.37 ac	None	Nov-07	\$35,000
11	20669 Alder St	Indianola	0.17 ac	None	Jun-07	\$41,500
12	xxx Bridge View Pt Rd	Kingston	0.50 ac	None	Jul-07	\$70,000
13	1 Wagner Circle	Kingston	0.23 ac	None	May-07	\$69,000
14	22742 Tranquilly Pl	Kingston	0.73 ac	Sound, Mt	Mar-07	\$325,000
15	15 Washington Blvd	Kingston	0.57 ac	None	Feb-07	\$52,500
16	xxx Glavin Ln	Kingston	0.72 ac	Partial Sound, Mt	Feb-07	\$95,000
17	xxx Slewview Dr	Kingston	0.48 ac	Partial Sound, Mt	Mar-07	\$180,000
18	xxx Indianola Rd	Kingston	0.50 ac	None	Mar-07	\$110,000
19	Lot 5 Cherry St	Kingston	0.66 ac	None	Aug-07	\$98,700
20	xxx Jefferson Beach Rd	President Point	0.45 ac	None	Jul-07	\$85,000
21	12100 Phillips Pl	President Point	0.41 ac	None	May-07	\$84,000
22	21326 Jefferson Beach Rd	President Point	0.45 ac	None	May-07	\$85,000
23	xxx Cora Ct	Hansville	0.34 ac	Sound, Mt	Jun-07	\$127,000
24	Lot 12 Twin Spits Rd	Hansville	0.61 ac	Sound, Mt	Sep-07	\$125,000
25	xxx Bay St	Hansville	0.20 ac	None	Jul-07	\$76,900
26	Lot 9 Bay St	Hansville	0.41 ac	None	Mar-07	\$90,000
27	5751 Spruce Dr	Hansville	0.44 ac	None	Jan-07	\$38,500
28	5924 Cedar St	Hansville	0.32 ac	None	Jun-07	\$60,000
29	38279 Doe Rd	Hansville	0.29 ac	Sound, Mt	Jul-07	\$143,000
30	Lot 9 Zachariasen	Hansville	0.46 ac	Partial Sound	Mar-07	\$135,000
31	Lot 13 Twin Spits Rd	Hansville	0.71 ac	None	Sep-07	\$125,000
32	39051 Shoreview Dr	Hansville	0.27 ac	Partial Sound	Mar-07	\$117,000
33	37361 Olympic View Rd	Hansville	0.24 ac	None	Dec-07	\$70,000
34	5037 Willow Pl	Hansville	0.28 ac	None	Mar-07	\$83,500
35	36927 Aspen Way	Hansville	0.36 ac	None	Feb-07	\$64,000

**2007 LAND SALES COMPARISON SUMMARY TABLE
NORTH KITSAP COUNTY**

1-3 Acres

36	3101 Nine Boulder Dr	Poulsbo	2.01 ac	Sound, Mt	May-07	\$275,000
37	xxx Canyon Rd	Poulsbo	2.43 ac	Sound, Mt	Mar-07	\$300,000
38	4284 SR 104	Poulsbo	1.13 ac	Partial Sound	May-07	\$135,000
39	23474 SR 3	Poulsbo	2.51 ac	None	Jul-07	\$125,000
40	17900 Hallman Rd	Poulsbo	2.42 ac	Partial Sound	Dec-07	\$160,000
41	123 Big Valley Rd	Poulsbo	2.68 ac	None	Feb-07	\$195,000
42	15323 Virginia Pt Rd	Poulsbo	2.28 ac	Sound, Mt	Jun-07	\$319,000
43	239xx Stottlemeyer Rd	Poulsbo	2.06 ac	None	Sep-07	\$219,000
44	17890 Hallman Rd	Poulsbo	2.42 ac	None	Nov-07	\$160,000
45	xxx Taka Ln	Kingston	2.50 ac	None	May-07	\$160,000
46	Lot 8 Hansville Rd	Kingston	2.52 ac	None	Jun-07	\$160,000
47	27789 Hansville Rd	Kingston	2.40 ac	None	Dec-07	\$212,000
48	xxx Port Gamble Rd	Kingston	2.33 ac	None	Mar-07	\$195,000
49	23654 Mahoney Ln	Kingston	2.54 ac	None	Oct-07	\$265,500
50	12307 Marine View Dr	Kingston	3.15 ac	Sound, Mt	Aug-07	\$600,000
51	32780 Hoffman Rd	Kingston	2.16 ac	Sound, Mt	Jan-07	\$490,000
52	27715 Parcell Rd	Kingston	2.52 ac	None	Oct-07	\$210,000
53	xxx Lincoln Rd	Kingston	2.13 ac	None	May-07	\$155,000
54	32780 Hoffman Rd	Kingston	2.16 ac	Sound, Mt	Jan-07	\$490,000
55	27715 Parcell Rd	Kingston	2.52 ac	None	Oct-07	\$210,000
56	xxx Lincoln Rd	Kingston	2.13 ac	None	May-07	\$155,000
57	xxx Jefferson Reach Rd	President Point	2.35 ac	Sound, Mt	Apr-07	\$220,000
58	Lot 97 President Pt Rd	President Point	1.37 ac	None	Jan-07	\$159,000
59	Lot 99 President Pt Rd	President Point	1.37 ac	None	Jan-07	\$159,000
60	35763 Hood Canal Dr	Hansville	1.21 ac	Sound, Mt	Oct-07	\$290,000
61	xxx Hansville Rd	Hansville	2.56 ac	None	Jan-07	\$163,000
62	xxx Point No Point Rd	Hansville	1.26 ac	Sound, Mt	Jun-07	\$139,000
63	37000 Thors Rd	Hansville	1.00 ac	None	Aug-07	\$55,000
64	xxx Foulweather Bluff Rd	Hansville	1.32 ac	Sound, Mt	Feb-07	\$324,950
65	36791 Hood Canal Dr	Hansville	1.21 ac	Sound, Mt	Jun-07	\$325,000

3-7 Acres

66	5173 Totten Rd	Poulsbo	4.00 ac	None	May-07	\$159,000
67	Lot 1 Sherman Hill Rd	Poulsbo	4.29 ac	None	Feb-07	\$230,000
68	111 Silver Springs Dr	Poulsbo	5.00 ac	None	Jun-07	\$135,000
69	xxx Tytler Ln	Poulsbo	5.61 ac	Mt	Feb-07	\$250,000
70	Lot 3 Pimlico Rd	Poulsbo	5.00 ac	None	Oct-07	\$250,000
71	10190 Shore Dr	Indianola	5.00 ac	None	Jul-07	\$217,000
72	xxx SR 104	Kingston	6.86 ac	Sound, Mt	Nov-07	\$500,000
73	33335 Old Hansville Rd	Kingston	4.90 ac	None	May-07	\$190,000
74	xxx Newelhurst Circle	Kingston	5.04 ac	None	Oct-07	\$190,000
75	Lot 44 Twins Spits Rd	Hansville	4.35 ac	None	Apr-07	\$215,000
76	xxx Foulweather Bluff Rd	Hansville	3.12 ac	Sound, Mt	Jun-07	\$490,000

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- ◆ The statements of fact contained in this appraisal are true and correct;
- ◆ The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conclusions, and are my personal, unbiased professional analyses, opinions, and conclusions;
- ◆ I have no present or prospective interest in the property that is the subject of this appraisal, and I have no personal interest or bias with respect to the parties involved;
- ◆ My engagement in this assignment was not contingent upon developing or reporting predetermined results. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- ◆ My analyses, opinions, and conclusions were developed, and this appraisal has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- ◆ The appraisal consultation was made and the report prepared in conformity with the Appraisal Foundation's Uniform Standards for Professional Appraisal Practice.
- ◆ I have not made a personal inspection of the property that is the subject of this report.
- ◆ I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by authorized representatives.
- ◆ As of the date of this report, I have completed the requirements under the continuing education program of the Appraisal Institute.

RESTRICTION UPON DISCLOSURE & USE:

Disclosure of the contents of this appraisal report is governed by the By-Laws & Regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which (s)he is connected, or any reference to the Appraisal Institute or to the MAI designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the undersigned. No part of this report or any of the conclusions may be included in any offering statement, memorandum, prospectus or registration without the prior written consent of the appraiser.

This report has been performed in accordance with the Uniform Standards of Professional Appraisal Practice, which defines appraisal consulting as the process of developing an analysis, recommendation or opinion to solve a problem, where an opinion of value is a component of the analysis leading to the assignment results, but does not have an appraisal as its primary purpose. Expressing a value opinion as a range is permissible. This analysis is presented as a restricted report, which is the least expensive report permitted under USPAP, and recognizes the client's familiarity with the subject. Such a report is not intended to be used nor would it be readily understood by anyone not familiar with the subject.

Name: Stephen Shapiro, MAI
WS Cert # 1101561

Signature: 

Date Signed: January 27, 2010

Attachment G



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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

David Lynam
Interim Director, FM, CBO

SEPA ADDENDUM 3 Arborwood Preliminary Plat

DATE: December 12, 2024

TO: Recipients of the Amended Mitigated Determination of Non-Significance for the Arborwood Preliminary Plat—Preliminary Plat application 07-47662 and proposed amendment to Arborwood Development Agreement application 24-04007

FROM: Jeff Smith, Kitsap County Sr Planner, SEPA Coordinator

RE: Third SEPA addendum to Arborwood Preliminary Plat
Proposed changes to Arborwood Development Agreement
--Reflecting current ownership
--Changing the term of the agreement

The Kitsap County Department of Community Development (DCD) is issuing this addendum to the State Environmental Policy Act Mitigated Determination of Non-Significance (SEPA MDNS) for the Arborwood Preliminary Plat 07-47662, which is associated with the proposed amendment to the Arborwood Development Agreement (DA) being reviewed under application 24-04007.

Consistent with WAC 197-11-600-625, DCD is sending this addendum to the recipients of the MDNS decision and previous addendums. The SEPA comment period for the amendment to the Arborwood DA occurred concurrently with the Notice of Application, dated October 4, 2024. The County received comments from interested parties related to the amendment. The addendum has been prepared in compliance with RCW 43.21.C (SEPA), WAC 197-11-706 SEPA rules), and Kitsap County Code (KCC) 18.04 (SEPA).

The addendum provides additional information about the proposed amendment to the DA. By this notice, DCD is issuing a SEPA addendum that all proposed changes to the DA are within the range of alternatives and adverse environmental impacts previously analyzed by the MDNS for the Preliminary Plat/Performance Based Development (PBD) dated July 21, 2009. This current SEPA addendum is not appealable.

The purpose of the proposed application is to amend the approved DA through a Type IV legislative decision, as authorized by KCC 21.04. Since the original County approval of the DA, the County has reviewed two separate minor amendments to the approved Preliminary Plat/PBD. For each prior amendment, November 15, 2019 and March 7, 2023, DCD issued SEPA addendums stating that all changes are within the alternatives and environmental impacts previously analyzed.

The proposed amendment to the DA does not include substantive changes to the project envelope described in the Agreement or the project approved through SEPA. This addendum addresses the following:

1. The proposed request includes modifications to ownership shown in the original DA. The Arborwood Preliminary Plat was purchased on August 30, 2021 by Pulte Homes of Washington, LLC, and Taylor Morrison Northwest, LLC. The DA would be amended to substitute Pulte and Taylor Morrison as the latest parties to the Agreement and Olympic Property Group would be removed.
2. The request for amendment would extend the current term of the DA by five years with the overall term increasing from fifteen to twenty years.
3. All conditions of the Hearing Examiner's decision as listed for previous land use actions shall continue to apply, dated October 28, 2009 and including conditions for the required SEPA substantive traffic and Right of Way mitigation.

This addendum does not decide on the proposed changes, and the proposed changes are subject to a public hearing (date TBD). There is not an appeal of this SEPA addendum.

For further information, please contact Jeff Smith at 360-337-5777 jnsmith@kitsap.gov.

Attachment H

ATTACHMENT H

SUMMARY OF TRAIL OWNERSHIP, CONSTRUCTION, MAINTENANCE AND PHASING

1. **Arborwood Regional Trail (see #1 on attached map)**
 - Final Ownership: Kitsap County
 - Final Maintenance: Kitsap County
 - Construction: OPG (for portion within Arborwood boundaries)
 - Construction Phasing: The paved regional trail will be built as each section of road is built within the Arborwood development. OPG will dedicate the trail once construction of the full trail is completed. Since the trail will be built in phases to correspond with the Arborwood Project phases, OPG in the interim will provide an easement for access and will perform maintenance for completed trail sections prior to OPG's dedication of title upon full completion. Throughout development of Arborwood, OPG to maintain north/south access availability and connection to existing trails on adjoining property to the west ("Option Property") through temporary connection via emergency access road, existing trails/logging roads, and/or the Waste Water Treatment Plant access road.

2. **Primary East/West Connector Trail between Arborwood Regional Trail and Option Property trails at north/south mid-point (see #2 on attached map)**
 - Final Ownership: Kitsap County
 - Final Maintenance: Kitsap County
 - Construction: OPG on Arborwood land; County on Option Property land
 - Construction Phasing: Paved connector to be constructed by OPG with Phase 1B (see phasing map attached as Attachment F). Trail area to be in a separate parcel dedicated to Kitsap County after alignment is known and trail constructed. Interim soft surface minimum-width trail connection to be made available by OPG through connections to existing trails/logging roads/Waste Water Treatment Plant access road.

3. **Greenway Trails (104 acre addition to Heritage Park)**
 - Final Ownership: Kitsap County
 - Final Maintenance: Kitsap County
 - Construction: County. If a trail is needed through this area for connection of neighborhoods, it would be built by OPG prior to dedication of park land.
 - Construction Phasing: Soft surface, minimum-width trails to be built as funding is available unless a trail is needed to connect neighborhood and built by OPG prior to dedication. As provided in Section 2.5 of the Agreement, the 104 acres of park land will initially be placed in a Conservation Easement. As the Arborwood project develops, the boundaries of this Conservation Easement may shift if agreed to by both County and OPG. Once it is determined there will be no additional changes to the boundaries, OPG will dedicate the land to Kitsap County.

4. **Arborwood Neighborhood Connector Trails (within the Arborwood Project)**

- Final Ownership: Homewoner association per CCRs
- Final Maintenance: Homewoner association per CCRs
- Construction: OPG
- Construction Phasing: With the development of each neighborhood within Arborwood



ARBORWOOD Kingston, Wa.

