



# Kitsap County Hearing Examiner

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36  
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## NOTICE OF HEARING EXAMINER DECISION

July 13, 2011

To: Interested Parties and Parties of Record

RE: Project Name: **Ridgeline – Preliminary Plat Alternation**  
Applicant: **Fred Depee**  
**P.O. Box 586**  
**Manchester, WA 98353-0586**  
**South Kitsap County, Commissioner District #2**  
Application: **Preliminary Plat Alternation**  
Case Number: **110609-012 (182302-2-004-2009; 039-2008) LIS#10 93857**

Enclosed is the Decision issued by the Kitsap County Hearing Examiner in the above-referenced matter.

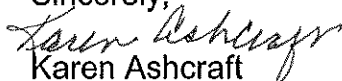
As authorized by Kitsap County Code Section 2.10.120, **REQUESTS FOR RECONSIDERATION** of the Hearing Examiner's Decision in this matter must be filed in writing to the Department of Community Development on or before five (5) business days from the effective date of the Decision. Please note Reconsideration will be administered at an hourly rate of \$84.00, accounted for in quarter-hour increments; a minimum of one (1) hour will be charged for any Reconsideration. The balance of the fee for Reconsideration must be paid prior to issuance of the Decision.

**THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS APPEALED, AS PROVIDED UNDER WASHINGTON LAW AND BY KCC 21.04.120 OF THE KITSAP COUNTY LAND USE AND DEVELOPMENT PROCEDURES**

The complete case file will be available for review at the Department of Community Development, Monday through Thursday, except holidays, 10:00 a.m. to 4:00 p.m. by calling me at (360) 337-4487 for an appointment.

If you have questions, please contact me at (360) 337-4487.

Sincerely,

  
Karen Ashcraft  
Clerk of the Examiner

**NOTICE OF DECISION – RIDGELINE – PRELIMINARY PLAT ALTERATION**  
**JULY 13, 2011**  
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C: Fred Depee, PO Box 586, Manchester, WA 98353-0586, [freddepee@wavecable.com](mailto:freddepee@wavecable.com)  
Richard Shattuck, Attorney, 4102 NW Anderson Hill RD, Silverdale, WA 98383,  
[shattucklaw@earthlink.net](mailto:shattucklaw@earthlink.net)  
Craig Baldwin, PE, West Sound Engineering, Inc., 217 Wilkins DR, Port Orchard, WA  
98366 [wse@wsengineering.com](mailto:wse@wsengineering.com)

**Interested Parties:**

Bill Simmons, [litbil288@wavecable.com](mailto:litbil288@wavecable.com)  
Loretta Anderson [loretta1942@live.com](mailto:loretta1942@live.com)  
Ryan Vancil, Attorney, [ryan@vancillaw.com](mailto:ryan@vancillaw.com)  
Peter Boorman, 3515 Se Baker RD, Port Orchard, WA 98367

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KITSAP COUNTY DEPT. OF  
COMMUNITY DEVELOPMENT

**BEFORE THE HEARING EXAMINER  
FOR KITSAP COUNTY**

In the Matter of the Application of	)	No. 110609-012
	)	
<b>Fred Depee</b>	)	<b>Ridgeline Preliminary Plat</b>
	)	
	)	FINDINGS, CONCLUSIONS, AND
<u>For Approval of a Preliminary Plat</u>	)	RECOMMENDATION

**SUMMARY OF DECISION**

The Hearing Examiner recommends that the request for a preliminary plat to subdivide approximately 18.28 acres into 125 residential lots on property located on the southwest corner of the Phillips Road SE/SE Baker Road intersection, in Kitsap County, Washington, should be **APPROVED**, with conditions.

**SUMMARY OF RECORD**

Request:

Fred Depee requests a preliminary plat to subdivide approximately 18.28 acres into 125 residential lots on property located on the southwest corner of the Phillips Road SE/SE Baker Road intersection, in Kitsap County, Washington.

Hearing Date:

The Hearing Examiner held an open record hearing on the request on June 9, 2011. The Hearing Examiner kept the record open until June 20, 2011, to receive a West Sound Utilities letter of water availability, a response from the Applicant attorney on a DeBell forestry report submitted by Mr. William Simmons, and until June 22, 2011 to receive a reply to that response from Mr. Simmons's attorney.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- Dennis Oost, County Planner
- Steve Heacock, County Environmental Planner
- Shawn Alire, County Development Engineering
- William Simmons
- Jeff DeBell
- Christopher Lemke
- Peter Boorman
- Joseph Higdon
- Loretta Anderson

*Findings, Conclusions, and Recommendation*  
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Peggy Henry  
Frank Phipps  
Robbyn Meyers  
Craig Baldwin

Richard Shattuck, Attorney, represented the Applicant at the open record hearing. Ryan Vancil, Attorney, represented William Simmons at the open record hearing.

Exhibits:

The following exhibits were admitted into the record:

1. Initial Preliminary Plat/Performance Based Development Application, dated June 1, 2007
2. KC Environmental (SEPA) Checklist, dated May 31, 2007
3. Traffic Impact Analysis Report, dated October 2007
4. Revised Site Plan, dated February 29, 2008
5. Revised Staff Report, dated February 1, 2008
6. Hearing Examiner Decision, dated June 26, 2008
7. Supplemental Hearing Examiner Decision, dated December 5, 2008
8. Exhibits 102 & 108-112 Referenced in Supplemental Hearing Examiner Decision, dated July 15, 2008; October 17, 2008; July 25, 2008; and October 21, 2008
9. Amended Supplemental Decision with Correct Development Engineering Conditions, dated January 16, 2009
10. Revised Preliminary Storm Drainage Report, dated August 19, 2010
11. Revised Site Plan, dated September 2, 2010
12. Revised Preliminary Plat Application, dated September 27, 2010
13. Notice of Complete Application Letter, dated October 13, 2010
14. Notice of Application, dated October 20, 2010
15. Re-Issued Notice of Application, dated October 21, 2010
16. KCPW Application for Concurrency Test, received November 1, 2010
17. Appeal of Hearing Examiner Decision, dated December 19, 2008
18. KC Board of Commissioners Decision, dated June 8, 2009
19. E-mail from Bill Simmons, dated November 4, 2010
20. E-mail from Loretta Anderson, dated November 4, 2010
21. Letter from Ryan Vancil, Attorney, dated November 11, 2010
22. Letter from Ryan Vancil, Attorney (Attachment), dated November 15, 2010
23. Technical Review Meeting Attendance Sheet, dated November 17, 2010
24. Letter from Craig T Baldwin, WestSound Engineering, dated December 20, 2010
25. Revised Traffic Impact Analysis, dated December 2010
26. Revised Preliminary Plat Map and Site Plan, dated December 20, 2010
27. Revised Environmental (SEPA) Checklist, dated December 20, 2010
28. Revised Preliminary Storm Drainage Report, WestSound Engineering, Inc., dated January 19, 2011
29. Revised Preliminary Storm and Grading Plan, Preliminary Road Profiles, and Preliminary Sewer and Water Plan, dated January 19, 2011

*Findings, Conclusions, and Recommendation*  
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*Ridgeline PP, No. 110609-012*

30. Notice of Appearance – Ryan Vancil, dated February 18, 2011
31. Letter from Loretta J Anderson, dated March 15, 2011
32. Revised Mitigated Determination of Non-Significance, dated March 30, 2011
33. E-mail from Steve Heacock, dated April 21, 2011
34. Binder Sewer Availability Letter – West Sound, dated May 16, 2007
35. Affidavit of Posting (2 Photos), dated May 24, 2011
36. Notice of Public Meeting, dated May 25, 2011
37. Certification of Public Notice, dated May 25, 2011
38. Staff Report, dated May 10, 2011
39. Revised Staff Report, dated June 1, 2011
40. Power Point Presentation, dated June 9, 2011
41. E-mail from Judith Kringsman, dated June 8, 2011
42. Date Correction Shawn Alire DE, dated March 1, 2011
43. DeBell Buffer Recommendations for the Ridgeline Development, with Attachments & CD – Ryan Vancil, dated June 9, 2011
44. Newspaper Clipping, Peter Boorman, dated June 8, 2011 [Not Admitted]<sup>1</sup>
45. Statement from Loretta Anderson, dated June 9, 2011
46. Statement from Peggy Henry, dated June 9, 2011
47. Statement & Photos (4) Peter Boorman, December 10, 2010 and December 15, 2010
48. Non-Binding Water/Sewage Availability Letters, West Sound Utility District, dated April 15, 2009
49. Letter from Ryan Vancil, dated June 15, 2011
50. Letter from Richard B Shattuck with Attached Galen Wright Report, dated June 15, 2011
51. William Simmons' Reply to Applicant Comments on Forester Report with Attachment, dated June 20, 2011

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

## FINDINGS

### *Application and Notice*

1. Fred DePee (Applicant) requests a preliminary plat to subdivide approximately 18.28 acres into 125 residential lots on property located on the southwest corner of the Phillips Road SE/SE Baker Road intersection, in Kitsap County, Washington.<sup>2</sup> *Exhibit 12; Exhibit 37, Staff Report, page 1.*

<sup>1</sup> A newspaper clipping from Peter Boorman, dated June 8, 2011, was marked Exhibit 44 but not admitted, in accordance with an oral ruling by the Hearing Examiner at the open record hearing.

<sup>2</sup> The property subject to the preliminary plat application is identified by Assessor Tax Account Nos. 182302-2-004-2009 and 182302-2-039-2008. *Exhibit 12.* A legal description of the subject property is included with the application. *Exhibit 12.* The Revised Staff Report, dated June 1, 2011, states that the property would be subdivided into 102 lots. *Exhibit 39, Staff Report, page 1.* Dennis Oost, County Planner, testified at the open record hearing that the property would be subdivided into 125 lots. *Testimony of Mr. Oost.* Richard Shattuck, Applicant Attorney, did not object to Mr. Oost's testimony at the open record hearing.

2. The Applicant's request for a preliminary plat was initially submitted as an application to alter a previously-approved Ridgeline preliminary plat. The Board of County Commissioners (BOCC) affirmed the Hearing Examiner decision approving the preliminary plat with conditions, upon appeal, on June 8, 2009.<sup>3</sup> The County staff report, dated June 1, 2011, states the County Department of Community Development (DCD) determined the request is for a major alteration of the plat and processed the request as a new application for a preliminary plat. *Exhibit 18; Exhibit 37, Staff Report, page 1.*
3. Kitsap County (County) determined the application was complete on October 13, 2010. *Exhibit 13.* The County mailed notice of the application to the Applicant, Applicant representative, interested parties and owners of property within 400 feet of the subject property on October 21, 2010, and mailed a re-issued notice again to the same parties on October 22, 2010. The County published notice of the application in the *Port Orchard Independent* on October 25, 2010. On May 20, 2011, the County published notice of the open record hearing associated with the application in the *Port Orchard Independent*, and posted notice of the hearing on the property subject to the application on May 25, 2011. The County also mailed notice of the hearing to the Applicant, Applicant representative, interested parties and owners of property within 400 feet of the subject property on May 25, 2011. *Exhibit 37.*

*State Environmental Policy Act Review*

4. The County acted as lead agency and analyzed the environmental impact of the proposal, as required by the State Environmental Policy Act (SEPA), Ch. 43.21C RCW. The County determined that with five mitigation measures, including a measure imposing 14 conditions to mitigate traffic and right-of-way impacts, the proposal would not have a probable significant adverse impact on the environment, and issued a Revised Mitigated Determination of Nonsignificance (Revised MDNS)<sup>4</sup> on March 30, 2011. The remainder of mitigation measures concern incorporating the 2005 County Comprehensive Plan Environmental Impact Statement (EIS) by reference; stormwater quantity and quality mitigation; and sidewalk, curb, and gutter improvements along the property's SE Baker Road and Phillips Road SE frontage. Steve Heacock, County Environmental Planner,

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<sup>3</sup> The Hearing Examiner held an open record hearing on the initial preliminary plat request on January 24, 2008. On June 26, 2008, the Hearing Examiner remanded the request to the Kitsap County (County) SEPA Responsible Official for further consideration of proposed development impacts. Citizens appealed the remand on July 14, 2008, and renewed their appeal on December 19, 2008. Upon response from the County SEPA Responsible Official concerning issues subject to remand, the Hearing Examiner issued a final decision, *Amended Supplemental Decision*, dated January 12, 2009. Upon appeal, the County Board of County Commissioners (BOCC) affirmed the Hearing Examiner's Findings of Fact, Conclusions of Law, and conditions set forth within the June 26, 2008 and January 12, 2009 decisions and denied the appeal. *Exhibit 18.* Hearing Examiner Kimberly A. Allen did not participate in the previous Hearing Examiner decisions on the initial preliminary plat request or the appeal.

<sup>4</sup> The County issued an MDNS in light of the impacts of the original preliminary plat proposal approved by the County BOCC upon appeal. *Exhibit 18; Exhibit 32.*

testified that the Revised MDNS was not appealed. *Exhibit 32; Testimony of Mr. Heacock.*

*Comprehensive Plan and Zoning*

5. The property subject to the application is designated Urban Low-Density Residential under the Kitsap County Comprehensive Plan. *Kitsap County Comprehensive Plan, Comprehensive Plan Land Use Map – South (December 2006)*. The Urban Low-Density Residential designation primarily focuses on single-family dwellings but also may include innovative types such as clustered housing. It also includes regulated environmentally critical areas within the Urban Growth Areas (UGAs)<sup>5</sup> and other areas identified for low-density urban development. *Comprehensive Plan, Land Use Element, page 2-20 (December 2006)*.
  
6. Comprehensive Plan land use policies relevant to the proposal state all new residential growth within the UGA should achieve at least the lower end of the density range within the Comprehensive Plan land use designation, where densities are expressed as a range on the Comprehensive Plan land use map, except where lower densities are appropriate to recognize critical areas and neighborhoods or subdivisions with little vacant land and little or no opportunity for infill or redevelopment. Comprehensive plan land use policies also apply density incentives in the UGA; require urban-level sanitary sewer in the UGA; control stormwater runoff to meet or exceed minimum state technical requirements, so runoff from the post-developed site does not exceed the capacity of receiving facilities; and encourage Low Impact Development (LID) techniques to reduce stormwater facilities and maximize groundwater resources. Comprehensive Plan surface water resources policies consider cumulative impacts, minimize impervious surface and loss of natural vegetative cover, and minimize erosion and siltation. Comprehensive Plan housing policies encourage greenbelts, open space, play areas, pedestrian-scale and cluster residential neighborhoods in urban areas, and transportation policies provide streetscape designs in urbanized areas and retain native vegetation as a priority.<sup>6</sup> *Comprehensive Plan, Land Use Element, pages 2-7, 2-16, 2-38, and 2-40 (December 2006); Comprehensive Plan, Natural Systems Element, pages 4-5 – 4-6 (December*

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<sup>5</sup> "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110. *RCW 36.70A.030(20)*. "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. *RCW 36.70A.030(19)*.

<sup>6</sup> County staff identified the following Comprehensive Plan policies as applicable to the proposal: Land Use policies LU-2, LU-3, LU-14, LU-133, LU-137, LU-148; Surface Water Resources policies NS-27, NS-28, NS-32; Housing policies HS-12, HS-13, HS-15; and Transportation policies T-81 and T-83. *Exhibit 39, Staff Report, pages 6 – 8*.

2006); *Comprehensive Plan, Housing Element, page 6-3 (December 2006)*;  
*Comprehensive Plan, Transportation Element, page 8-11 (December 2006)*.

7. The subject property is located in the County's Urban Low Residential (UL) zoning district. The purpose of the UL zoning district is to recognize, maintain, and encourage urban low density residential areas by including a full range of urban services and facilities that are adequate at the time of development. This zone is also intended to create cost-efficient residential areas which are capable of allowing the provision of community services in a more economical manner. *Kitsap County Code (KCC) 17.330.010*. Development of single-family detached dwelling units is an allowed use within the UL zoning district. *KCC Table 17.381.040(A)*.<sup>7</sup> Single-family residential development is allowed within the UL zoning district at a minimum density of four dwelling units per acre (du/ac), and a maximum density of nine du/ac. *KCC 17.382.060*. Dennis Oost, County Planner, testified that proposed subdivision would be developed at a density of approximately 6.8 du/ac.<sup>8</sup> *Exhibit 39, Staff Report, page 4; Testimony of Mr. Oost.*
8. Lots within the UL zoning district must be at least 2,400 square feet in size, at least 40 feet wide and at least 60 feet deep. There is no maximum impervious surface coverage per lot in the UL zoning district. Lots must incorporate at least a 10 foot wide front yard setback for habitable area or 20 foot front yard setback for garages or carports; and at least a five foot wide side yard and rear yard setback, except at least 10 feet wide for a garage or carport opening directly on an alley. *KCC 17.382.060*. A plat map and site plan dated December 20, 2010 submitted by the Applicant depicts 125 lots, with each lot at least 40 feet wide and at least 60 feet deep. Mr. Oost testified that proposed lots are consistent with the requirements of the UL zoning district. *Exhibit 26; Testimony of Mr. Oost.*

#### *Parks and Open Space*

9. The revised preliminary plat map and site plan states the plat would include one park tract for recreational use approximately 0.64 acres in size. The preliminary storm and grading plan dated January 19, 2011 also depicts this tract. Park Tract A would be located in the northeast portion of the plat, adjacent to the south of SE Baker Road, adjacent to the west of proposed Lot 77, adjacent to the north of proposed Lots 60, 65, and 66, and adjacent to the east of a private parcel owned by Frank and Lisa Phillips. As depicted, the park tract would also be used for stormwater emergency overflow. Mr. Oost testified no public parks are located within walking distance of the subject property. Richard Shattuck stated for the Applicant that a park is located at Long Lake, east of the

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<sup>7</sup> Kitsap County Code (KCC) requires that within urban growth areas, all new residential subdivisions, single-family or multifamily developments must provide an urban level of sanitary sewer service for all proposed dwelling units. *KCC 17.381.050.A.48*.

<sup>8</sup> The density calculation is: 125 dwelling units / 18.28 acres = 6.8 du/ac.

subject property, but there is no walking route to the lake from the property. *Exhibit 26; Testimony of Mr. Oost; Statement of Attorney Shattuck.*

#### *Access, Roads, and Traffic*

10. The proposed plat would be accessed from Phillips Road SE, located adjacent to the east of the subject property, and SE Baker Road, located adjacent to the north of the subject property. The proposed plat would include one road tract approximately 3.66 acres in size. Proposed Road A would intersect SE Baker Road at a point central to the proposed plat. Proposed Road A would extend south from SE Baker Road through the plat, intersecting with Proposed Road D and Proposed Road C, then turn east through the plat to intersect with Phillips Road SE at the southeast portion of the plat. Proposed Road C would extend west from Proposed Road A and would terminate in a cul-de-sac. Proposed Road E would extend north from Proposed Road C and terminate in a cul-de-sac. Proposed Road D would extend east from Proposed Road A then terminate at Proposed Road B. Proposed Road B would extend south from Proposed Road D, parallel to Proposed Road A. Proposed Road B would connect to Proposed Road A just before the intersection of Proposed Road A and Phillips Road SE. All proposed roads would consist of two 10 foot wide lanes. Five foot wide sidewalks would be constructed on each side of the road. Street trees would be planted along proposed roads. *Exhibit 26; Exhibit 28; Exhibit 29.*
11. A Heath & Associates, Inc. Revised Traffic Impact Analysis, dated December 2010, analyzed the traffic impact of proposed subdivision development on the surrounding road network, which generally consists of two-lane collector arterial roads varying in width, grade, and posted speeds.<sup>9</sup> Development of the proposed subdivision would generate approximately 1,277 average daily vehicle trips, with 97 vehicle trips in the A.M. peak period and 128 vehicle trips in the P.M. peak period. Traffic resulting from development of the proposed subdivision would split roughly 65-percent northerly and 35-percent southerly along Phillips Road SE. With or without the proposed development, the southbound leg of the Phillips Road SE/Mullenix Road intersection would function at Level of Service (LOS) F. The LOS on the northbound leg of the intersection would decrease from E to F with proposed development, and would remain LOS A on the eastbound left-turn leg and westbound leg with or without proposed development. All legs of the Phillips Road SE/SE Baker Road intersection would function at LOS A and LOS B with or without the proposed development. *Exhibit 25.*

#### *Stormwater Management and Control*

12. The subject property was logged in the early 1990s, and consists of undeveloped rural land with young second growth trees and brush. Site slopes range from two to 15-percent

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<sup>9</sup> Phillips Road SE is a two-lane, north-south arterial with a 35 – 45 mph posted speed limit. Lanes are approximately 11 feet wide with asphalt and gravel shoulders. SE Baker Road is an east-west roadway that ranges from 18 to 26 feet wide with grass and gravel shoulders. *Exhibit 25.*

grade. Craig Baldwin, Applicant stormwater engineer, testified there are no steep slopes on the subject property. *Exhibit 28; Testimony of Mr. Baldwin.*

13. Lake Emelia is located north of the proposed subdivision, across SE Baker Road. The County's Revised MDNS states the Washington Department of Ecology (DOE) confirmed there is no hydric connection between Lake Emelia, a wetland adjacent to Lake Emelia, and the subject property across SE Baker Road from Lake Emelia and the wetland. Mr. Oost testified that the County does not require that the proposed subdivision to include any buffers to protect wetlands. *Exhibit 32; Testimony of Mr. Oost.*
14. Stormwater runoff from the subject property flows west, north, and east from the subject property. Runoff flows west to an existing wetland located approximately 210 west of the subject property's northwest corner. The wetland has no outlet. Runoff that flows north is collected in a ditch along the south side of SE Baker Road. A culvert exists under SE Baker Road. Shawn Alire, County Development Engineering, testified that this culvert was plugged at the time of the initial subdivision application. Mr. Baldwin testified the culvert is currently unplugged, and that a portion of the subject property naturally drains to this area, discharging into Lake Emelia. Mr. Baldwin added that high water levels in Lake Emelia result in lake water moving into the trench on the north side of SE Baker Road. Runoff that flows east is collected in a ditch along the west side of Phillips Road SE, where it flows under Phillips Road SE and eventually discharges to Long Lake. The preliminary plat storm drainage report states there is no evidence of overtopping, scouring, bank sloughing or sedimentation of the drainage route downstream from the subject property. *Exhibit 28; Testimony of Mr. Alire; Testimony of Mr. Baldwin.*
15. Mr. Baldwin testified that stormwater runoff resulting from proposed development would be dispersed throughout the subject property through use of LID techniques throughout the property to manage runoff. Mr. Baldwin testified that all runoff resulting from the development would be retained and infiltrated on the subject property, and that the proposed park tract is designed to accommodate any overflow at a level exceeding the 100-year flood level. Mr. Alire testified that soils on the subject property are suitable for infiltration. *Exhibit 28; Testimony of Mr. Baldwin; Testimony of Mr. Alire.*
16. The proposed development would incorporate porous pavement to provide stormwater quantity and quality mitigation for proposed subdivision roads, except for a rain garden that would be used to provide mitigation for a small section of proposed Road A due to road grades. An infiltration pond would capture any rain garden overflow. Quality mitigation for each proposed lot would be provided through individual infiltration galleries for roof runoff and porous pavement for each driveway. All runoff would be treated in accord with the 2005 DOE Stormwater Management Manual for Western Washington. *Exhibit 29; Exhibit 42.*

*Utilities and Public Services*

17. Karcher Creek Sewer District would provide sewer service to the proposed subdivision under the terms of a Binding Sewer Availability letter. The subdivision would be located outside District boundaries, so a Binding Sewer Availability letter from the District requires payment of a fee to complete annexation into the District. According to a non-binding water availability letter dated April 15, 2009, water is available from the West Sound Utility District to serve the proposed subdivision for a period of three years from the date of the letter, upon payment of applicable connection fees and charges. *Exhibit 34; Exhibit 48.*
18. The proposed subdivision would obtain electric power from Puget Sound Energy, police services from the Kitsap County Sheriff, and fire protection services from South Kitsap Fire and Rescue. Student residents of the proposed subdivision would be served by the South Kitsap School District. The preliminary plat map and site plan submitted by the Applicant depicts a proposed bus stop at the northeast corner of the proposed development at the SE Baker Road/Phillips Road SE intersection. *Exhibit 26; Exhibit 39, Staff Report, pages 4 – 5.*
19. No transit service is provided in the immediate vicinity of the subject property. Kitsap County Transit Route 7 (South Park) is located one mile to the north of the property, and Route 85 (Mullenix) is located 1.5 miles to the south. Mr. Oost testified that area schools are located north of SE Sedgwick Road, located north of the subject property. *Exhibit 25; Testimony of Mr. Oost.*

*Surrounding Property*

20. Mr. Oost testified that a mobile home park is located to the south of the subject property, and a preliminary plat has been proposed northeast of the property. Mr. Oost added that the County received no comment from residents or owners of property within the mobile home park. Mr. Oost testified that parcels adjacent to the subject property generally consist of large lots, five to ten acres in size, containing single-family residential homes. Lots developed with single-family residential homes are also located around Lake Emelia, across Baker Road SE to the north of the subject property. *Exhibit 26; Testimony of Mr. Oost.*
21. The County staff report states property surrounding the subject property is located within the County's Rural Residential zoning district. Further east from the subject property and adjacent property, land is located in the County's Rural Protected zoning district. An approximately 20-acre parcel located approximately 700 feet to the northwest of the subject property is located in the County's Urban Restricted zoning district. *Exhibit 39, Staff Report, page 4.*

*Public Comment*

22. An email message from Judith Krigsman expressed concern that the proposed plat would be developed at a density inconsistent with surrounding rural and rural protection property, and objected to the proposed subdivision. A March 15, 2011 letter from Loretta J. Anderson, resident of 3255 SE Baker Road, questioned whether development at a density greater than four dwelling units per acre should be allowed on the subject property if the County calculates size of UGAs<sup>10</sup> based on anticipated population growth of four dwelling units per acre. The letter requested that the County not make a decision on the proposed subdivision until after July 2012 approval of Comprehensive Plan changes. Ms. Anderson testified to express concern about development density allowed for the subject property, that peak hour vehicle trips would be higher than calculated by the Applicant's traffic impact analysis, the proposed park would not be centrally located to serve subdivision residents, and that area schools would not be within walking distance. *Exhibit 31; Exhibit 41; Testimony of Ms. Anderson.*
23. Ms. Peggy Henry testified that she resides at property owned by William Simmons, and objects to the Urban-Low density zoning classification of the subject property. Ms. Henry requested fencing where the proposed subdivision would be located adjacent to the Simmons property. Ms. Henry also requested that light pollution from the development be limited to aid astronomy; that runoff not impact groundwater quality; that the Simmons property not be required to hook up to City of Port Orchard sewer; that the proposed development not harm state listed species residing on the subject property; and that traffic, noise, and crime would result from proposed development, inconsistent with the surrounding rural area. *Exhibit 45; Testimony of Ms. Henry.*
24. A December 15, 2010 letter from Peter Boorman requested that the proposed subdivision exit onto Phillips Road SE and SE Baker Road; that SE Baker Road be widened; that Lake Emelia be protected from any runoff from SE Baker Road or the proposed development, including sub-surface water from infiltration on the subject property; that data used in the preliminary storm drainage report is obsolete considering global warming effects;<sup>11</sup> and that the Applicant compensate owners of privately-held Lake Emelia for any adverse impact due to runoff from the proposed development. The letter also requested that existing trees be retained in the NE portion of the subject property to protect Mr. Boorman's property across SE Baker Road from wind damage. *Exhibit 47.*

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<sup>10</sup> Mr. Oost testified that the subject property is located in a County UGA. The County staff report states that the subject property was located in the Port Orchard UGA, but the Growth Management Hearings Board invalidated the UGA. The staff report states the proposed subdivision vested before the invalidation. *Exhibit 39, Staff Report, page 4; Testimony of Mr. Oost.*

<sup>11</sup> The preliminary storm drainage report, revised January 19, 2011, used the Western Washington Hydrology Model v.3 to calculate future likely precipitation, stormwater discharge, and ability of on-site soils to infiltrate discharge. The model used data collected at the Quilcene rain gauge between October 1948 and September 1999 to model likely future precipitation, discharge, and infiltration. *Exhibit 28.*

25. Christopher Lemke, President of Lake Emelia Community Club, testified that the culvert under SE Baker Road is currently bi-directional, and that the ditch along Phillips Road SE has never flowed to Cool Creek to his knowledge. Mr. Lemke testified to his concern that vehicles and sheds on pavement would prevent infiltration through pervious pavement, and that stormwater runoff would overflow from the subject property to Lake Emelia. Mr. Lemke also testified to his concern that children from the proposed subdivision would cross the street to play and swim at the private lake, creating a safety risk. Mr. Lemke requested a fence around the proposed park tract within the subdivision. Mr. Boorman testified he lives on Lake Emelia, with property frontage along SE Baker Road and Phillips Road SE. Mr. Boorman testified to express concern that proposed development density is too high. Mr. Boorman added there is a chain-link fence around the lake at the area near the subject property, and "No Trespassing" signs have been posted around the lake. *Testimony of Mr. Lemke; Testimony of Mr. Boorman.*
26. Joseph Higdon testified Lake Emelia is located approximately 300 feet from the subject property. Mr. Higdon testified that the existing fence and vegetation located in the area between the lake and the subject property have been cut in the past, and Lake Emelia community insurance costs are high. Mr. Higdon also testified to his concern that clay soils in the area would not infiltrate, and that trees on property around Lake Emelia would be subject to wind throw. *Testimony of Mr. Higdon.*
27. Frank Phipps testified to his concern that existing homes would be flooded as a result of the proposed development. Mr. Phipps testified he owns two acres to the northwest of the subject property, where a depression is located. Mr. Phipps added that water has been present on his property, and that he is concerned about the cumulative impacts of the proposed development. *Testimony of Mr. Phipps.*
28. Mr. Baldwin responded that the Applicant would employ erosion control measures, as developed during the County Site Development Activity Permit (SDAP) process, and that the Applicant is required to obtain a NPDES permit from the state DOE, which imposes more stringent stormwater quantity and quality requirements than the County. Mr. Baldwin testified that porous pavement design was based on County 2010 guidelines, and that design would cause water to percolate vertically down into the soil, retaining stormwater on the subject property. *Testimony of Mr. Baldwin.*
29. William Simmons testified that he owns property at 3338 SE Baker Road approximately 6.3 acres in size. Mr. Simmons testified there is a house and cell phone tower on the property. Mr. Simmons also testified that the property is enrolled in the Open Space-Timberland Program with the County, managed according to a Forest Stewardship Plan prepared November 25, 2007. The Plan provides for commercial thinning to improve forest health, timber quality and growth between 2010 and 2025, and allows for possible clear cut harvest and replanting in 2035. Mr. Simmons testified he has no plans to cut trees along the shared boundary with the subject property. Mr. Simmons added the

border between his property and the subject property is approximately 1,200 feet long. The Applicant's preliminary plat map and site plan depict the Simmons property located adjacent to the west side of the proposed subdivision. Mr. Simmons requested that native vegetation be retained, consistent with Comprehensive Plan policies, and that the Applicant retain a vegetative buffer between his property and the proposed subdivision. Mr. Simmons testified to express concern that light from the proposed subdivision be limited to protect his view of the night skies and aid his astronomy practice. Mr. Simmons also expressed concern that trees from his property would blow down on the subject property. *Exhibit 26; Exhibit 43; Testimony of Mr. Simmons.*

30. Mr. Vancil stated that Mr. Simmons requests a vegetated buffer between his property and the subject property, with the buffer located on the subject property. Buffer Recommendations for the Ridgeline Development Adjacent to the Bill Simmons Property, prepared by Dr. Jeff DeBell, Consulting Forester & Certified Arborist, dated May 28, 2011, recommended a 50 foot wide buffer be incorporated into the proposed subdivision to reduce wind throw risk to owners of homes within the subdivision from trees located on the Simmons property; to reduce noise impacts of the subdivision on the Simmons property; and to provide a visual screen and block light. The report recommended the buffer be planted with Giant Sequoia trees, which are not subject to root-rot, grow rapidly with a dense crown, are not subject to animal browse, and grow well in Western Washington. The report recommended two rows of trees be spaced within the buffer 10 feet from buffer boundaries, with 30 feet between the rows, to balance the need for a dense canopy with the need to make trees wind-resistant. The report included attached studies on use of trees for noise abatement and wind throw in old-growth Douglas fir stands. *Exhibit 43.*
31. Mr. Shattuck stated the Applicant does not intend to provide the requested buffer. Mr. Shattuck argued that the requested buffer would not little or no benefit, and would not aid in light, noise, or wind throw damage prevention. A report by Galen Wright, certified master arborist and forester, states there is a moderate potential for wind throw by trees on the Simmons property according to Natural Resources Conservation Service (NRCS) soil data. The report states the northeast corner of the Simmons property has or has had trees infected with root disease, according to the 2007 Forest Stewardship Plan for the property. The report states all trees are subject to wind throw, and that prevailing winds in the area come from the south and southwest. The report adds that trees on the Simmons property are predominantly over 110 feet tall, and argues that the proposed buffer would do little to mitigate the risk of trees falling on new homes. The report also adds that there is a 200 foot wide buffer between the subject property and the Simmons home, and states that the Simmons property can be removed from the Open Space program and developed at any time under its Urban Low-Density zoning classification with payment of back taxes. The report recommends that Mr. Simmons manage trees subject to root rot under the Forest Management Plan for the property. *Exhibit 50; Statement of Mr. Shattuck.*

32. Mr. DeBell testified that trees on Mr. Simmons's property are approximately 140 feet tall, on average. Mr. DeBell added that the thickest portion of the tree would blow down within the proposed buffer, if wind throw occurred. The 2007 Forest Management Plan states that trees in the northeast portion of the Simmons property are infected with laminated root rot, and should be harvested and replanted in the near future. Mr. DeBell testified that Mr. Simmons is an active tree manager and had shown him stumps affected by root rot. Mr. DeBell testified that the tree line on the Simmons property does not constitute the property line, as an adjacent landowner cut trees in the past on the Simmons property. Mr. DeBell added that the proposed buffer would likely not impact risk of wind throw, and that one cannot predict which trees will be subject to wind throw, but a buffer would provide light and sound attenuation when the trees are grown, in five to ten years. Mr. DeBell testified that existing trees on the Simmons property do not provide noise and light protection as the trees generally have no branches close to the ground. *Exhibit 43; Testimony of Mr. DeBell.*
33. Mr. Baldwin responded that plantings in the proposed buffer would not prevent blow down, given prevailing winds from the south or southwest, as proposed homes would not be in the path of any trees. Mr. Baldwin added that the proposed buffer would not alleviate light or noise impacts of proposed development. Robbyn Meyers, holder of a master's degree in environmental science focusing on estuary and shoreline environments, testified that the proposed buffer would not provide wind throw, light, or noise protection. *Testimony of Mr. Baldwin; Testimony of Ms. Meyers.*
34. Mr. Vancil argued that the requested buffer is required under KCC 17.385.027.B.2<sup>12</sup> and the RCW 58.17.110 provision for the public safety and welfare. A June 20, 2011 reply to the Shattuck response objected to the Wright report as information obtained through trespass and new expert testimony submitted after the close of the hearing.<sup>13</sup> The response also argued that the Applicant's forester has no background in noise or light expertise, and that trees on the Simmons property do not provide screening. The response by Dr. DeBell attached to the Vancil reply states that the information presented

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<sup>12</sup> This section of code states: "The director may require different buffer types depending on the proposed use of the site and adjacent zones and/or uses. These types shall include: B. Screening Buffer 2. Required for residential subdivisions or commercial development abutting a rural zone, a buffer of twenty-five to fifty feet of sight-obscuring, screening vegetation shall be provided. The director may modify this requirement after evaluating the effects of wind-throw or other safety concerns. In the event that the buffer will only contain high-branching trees which allow visibility through the buffer, a row of evergreen trees planted ten feet on center may be required along the highest point of the buffer." *KCC 17.385.027.B.2.*

<sup>13</sup> A June 15, 2011 letter submitted by Mr. Vancil and Mr. Vancil's June 20, 2011 reply to the Shattuck response asserts a trespass occurred on the Simmons property and requests that the applicant's expert report be excluded because it is the fruit of an illegal act. . There is no evidence of trespass before the Hearing Examiner, only the assertion of legal counsel; the request to exclude on that basis is denied. Simmons' opportunity to reply to the Shattuck response and attached Wright report , mitigate any claim of surprise resulting from new expert testimony. *Exhibit 49; Exhibit 51.*

in the Wright report is generally consistent with the DeBell report and testimony. The DeBell response states that wind throw can occur before signs of root rot are obvious; wind throw will not necessarily occur perpendicular to the property line, and thus a 50 foot wide buffer would contain much of a fallen tree, and that a buffer 50 feet in width is more consistent with other buffers required by the County over time. The DeBell response also refers to the DeBell report, which was based on papers written by experts in noise attenuation. According to the response, the papers state dense evergreen foliage can reduce noise, a buffer of dense evergreen foliage of the width proposed is effective in reducing noise, and that existing trees are too tall and shrub undergrowth too short to block noise. *Exhibit 51.*

*Staff Recommendation and Applicant Response*

35. Mr. Oost testified that County staff recommends approval of the proposed subdivision with 65 proposed conditions of approval and an additional condition requiring a six foot high solid cedar fence along the west edge of the proposed subdivision, adjacent to property owned by William Simmons. Mr. Shattuck stated the Applicant did not object to constructing the six foot high fence. Mr. Vancil argued the Applicant should construct an eight foot high fence. *Testimony of Mr. Oost; Statement of Mr. Shattuck; Argument of Attorney Vancil.*

**CONCLUSIONS**

Jurisdiction

The Kitsap County Hearing Examiner is authorized to make a recommendation of approval, approval with conditions, or disapproval of a preliminary plat application to the Kitsap County Board of County Commissioners (BOCC) through a Type III review process. *Kitsap County Code (KCC) 16.12.060; KCC 16.12.100; KCC Table 21.04.030; KCC 21.04.080.*

Criteria for Review

At the open record hearing, the Hearing Examiner shall consider all relevant evidence to determine whether to recommend that the preliminary plat be approved or disapproved by the board. To this end the examiner may request an environmental impact statement or environmental assessment, which must be considered by the examiner, and may form the basis for the examiner's recommendation. The county engineer and the county health officer shall provide to the hearing examiner their respective recommendations as to the adequacy of the proposed road system, the proposed sewage disposal and water supply systems. The hearing examiner shall determine whether the proposal includes appropriate provisions for drainage, roads, alleys and other public ways, water supplies, sanitary wastes, parks, playgrounds, fire protection facilities, school sites and grounds and other public and private facilities and improvements. The hearing examiner shall determine if the proposed subdivision conforms to the general purposes of the Comprehensive Plan, and if the public use and interest will apparently be served by the proposal. *KCC 16.12.060; KCC 16.12.070; KCC 16.12.080; KCC 16.12.090.*

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### Conclusions Based on Findings

- 1. With conditions, the proposed preliminary plat would make appropriate provisions for drainage, roads, alleys and other public ways, water supplies, sanitary wastes, parks, playgrounds, fire protection facilities, school sites and grounds and other public and private facilities and improvements.** Development of single-family residential detached dwelling units is allowed within the Urban-Low Density zoning district at a development density between four and nine du/ac. The proposed subdivision would be developed at approximately 6.8 du/ac consistent with the dimensional standards of the zone. The preliminary plat would infiltrate all stormwater runoff generated by the development on-site, through use of porous pavement, rain gardens, and infiltration trenches. Infiltration design would result in runoff percolating vertically down through the soil to avoid impacts on Lake Emelia or surrounding groundwater. On-site soils are suitable for infiltration, but any stormwater runoff that does not infiltrate on site would be directed to the proposed park tract, which would serve as a stormwater emergency overflow site for the subject property. Conditions of approval are necessary to ensure that stormwater quantity control, quality treatment, and erosion and sedimentation control is designed in accordance with Kitsap County Code Title 12; that the storage volume of the infiltration facility is adjusted to reflect the true infiltration rates with a safety factor of two applied, with an on-site inspection to verify prior to use of the infiltration facility; and the Applicant obtains a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology.

Student residents of the proposed plat would be part of the South Kitsap School District. A proposed bus stop would be located at the southwest corner of the SE Baker Road/Phillips Road SE intersection. The proposed plat includes a park tract for recreational use. Conditions of approval are necessary to ensure the tract is professionally landscaped and contains approved play equipment. The proposed plat would include internal subdivision roads and have two access points: one from SE Baker Road and the other from Phillips Road SE. Conditions of approval are necessary to ensure adequate sight distance for entering and exiting vehicles at the access points; interior roads are designed and constructed in accord with County code, County standards for a local access road, and the Americans with Disabilities Act; frontage improvements consisting of curb, gutter, and sidewalk are constructed from the southern property boundary on Phillips Road SE to the western property boundary on SE Baker Road; internal roads are public and right-of-way is dedicated to the County; and that a left-turn pocket be constructed on Phillips Road SE for vehicles traveling into the proposed subdivision. Conditions of approval are also necessary to ensure the Applicant pays a fair share of the cost of a future westbound right-turn lane on Phillips Road at the intersection of Phillips Road and Mullenix Road as a result of the impact of the proposed development on the surrounding road system, and to ensure documentation of WSDOT approval for impacts to and required mitigation on SR160. The mitigation will consist of an eastbound deceleration right-turn lane on SR160 at Phillips Road SE.

The proposed subdivision would obtain sewer service from Karcher Creek Sewer District. The Applicant submitted a non-binding letter of water availability from the West Sound Utility District. Conditions of approval are necessary to ensure an approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on site, and that internal subdivision roads are designed to allow emergency vehicle access. *Findings 1, 7 – 19, 35.*

2. **With conditions, the proposed preliminary plat would conform to the general purposes of the Comprehensive Plan, and the public use and interest would be served by the proposal.** Consistent with the Comprehensive Plan, the proposed plat would be served by urban-level sanitary sewer, would control stormwater runoff under the terms of a NPDES permit from the state DOE, and would incorporate LID techniques. Construction of the proposed plat would incorporate erosion and siltation control, consistent with Comprehensive Plan policies, and the plat would include an open space play area. Development of the proposed plat would result in removal of existing young second growth trees and brush. The County acted as lead agency under SEPA and determined that with mitigation measures addressing traffic and right-of-way impacts, stormwater quality and quantity, and sidewalk, curb, and gutter improvements, the proposal would not have a probable significant adverse impact on the environment.

The County gave adequate notice of the application and opportunity to comment. Written comment and testimony expressed concern about proposed development density; compatibility of development density with the density of surrounding development; traffic; park and pedestrian facilities; lack of buffer between the Simmons property and subject property to prevent negative impacts from wind throw, noise, and light; stormwater runoff impacts on Lake Emelia; trespass to access Lake Emelia; retention of native vegetation on the subject property; and flooding of surrounding property.

The current Comprehensive Plan designation and zoning classification of the subject property allow development of single-family detached residences at a density of 6.8 du/ac on the subject property, as proposed. The subject property is located in an area designated as a UGA at the time of vesting. Conditions of approval are necessary to ensure traffic impact of the proposed development is adequately mitigated. The proposed plat would include a park facility for recreation, sidewalks on both sides of internal subdivision streets, and sidewalks along the subject property's SE Baker Road and Phillips Road SE frontage. Conditions of approval are also necessary to ensure that proposed LID techniques for stormwater quantity and quality control are appropriately designed and adequately implemented to prevent impacts on Lake Emelia and surrounding property. It is the responsibility of the Lake Emelia property owners to continue fencing and posting their private property to prevent trespassing,

Existing trees on the Simmons property average 140 feet in height. Trees located at the edge of the Simmons property, adjacent to the proposed subdivision, are subject to wind throw, as are all trees. Trees affected by root rot are more subject to wind throw, but it is not always easy to detect a tree is affected by root rot. Management of the existing stand of trees on the Simmons property as allowed by the Forest Management Plan governing the property should avoid some wind throw. Even if wind throw occurs, some wind thrown trees would likely extend further than 50 feet from the edge of the Simmons property, as trees on the Simmons property average 140 feet tall. Thus, some residences within the proposed subdivision may be affected, and a 50 foot wide buffer may not be sufficient to protect the residences. Moreover, since all trees are subject to wind throw, Giant sequoia trees located within the buffer, as proposed, would also be subject to wind throw and possibly impact subdivision homes. Though the Board of County Commissioners may wish to consider a buffer, there is not sufficient evidence in the record to support requiring a buffer of the width and type proposed to protect subdivision homes from impacts of wind throw. A condition of approval is necessary to ensure a six-foot high solid fence is constructed along the boundary of the Simmons property and subject property to provide screening of the Simmons residence from the subject property, located approximately 200 feet from the Simmons residence. *Findings 1 – 6, 9, 12 – 17, 20 – 35.*

### RECOMMENDATION

Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that the request for a preliminary plat to subdivide approximately 18.28 acres into 125 residential lots on property located on the southwest corner of the Phillips Road SE/SE Baker Road intersection, in Kitsap County, Washington, be **APPROVED**, subject to the following conditions:<sup>14</sup>

1. All Building permits on these lots will be subject to impact fees pursuant to Kitsap County Code.
2. A mitigation plan for wetland and buffer impacts associated with the road construction must be included in the Site Development Application Permit pursuant Title 19.200 Kitsap County Code.
3. Street Trees 2-1/2" to 3" caliper will be provided along all interior roadways. Quantity of trees will be based on 30-foot spacing along each roadway curb length per KCC Section 385.010 D. The actual planting spacing may vary tighter or wider, but will not exceed 50' in length. Species and planting plan will be subject to approval by DCD planner prior to SDAP approval.

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<sup>14</sup> This recommendation includes conditions required to reduce project impacts as well as conditions required to meet County Code standards.

4. The play area will be fully developed with Consumer Product Safety Commission (CPSC) approved play equipment and professionally landscaped. The Development Plans, Landscape Plans and Irrigation Plans for these areas will be subject to approval by DCD planner prior to SDAP approval.
5. Details for all plantings and street trees will be provided to the DCD planner for approval, the details shall show automatic irrigation design, soil amendments and planting details, and a minimum of 2 inches of bark mulch over all disturbed soils of the planting area. Per KCC Section 385.010 H. I. J., prior to SDAP approval.
6. The owner shall create a homeowner's association, conveyed to subsequent property owners, that will ultimately be responsible for the maintenance of recreational open space facilities, tot lot, critical area buffer fencing, perimeter and entry landscaping, street trees, roadway maintenance and other activities associated with the infrastructure and support of a residential community.
7. Land use approval is limited to the uses proposed by the applicant on the recommended site plan and the SEPA Environmental Checklist dated June 06, 2007. Any modifications or expansion of the project will be subject to further review pursuant to the requirements of the appropriate sections of the Kitsap County Code.
8. Pursuant to KCC 21.04, land use approval is valid for a period of up to three (3) years from the decision date.
9. Water is to be provided by West Sound Utility District.
10. Sewerage is to be provided by Karcher Creek Sewer District.
11. Any wells or septic tanks that may be found on the property must be properly decommissioned.
12. A Building Clearance for Sewered Properties is required from the Health District prior to issuance of each building permit. These will each require a binding water availability letter, and sewer letter.
13. A minimum of 500 gallons of water per minute, measured at a residual pressure of 20 p.s.i. supplied for a minimum of 2 hours will be required to provide adequate fire flow for a building of less than 3,600 square feet, if the construction type consists of Type V-B. The required fire flow of 500 gpm requires a minimum of 1 hydrant to supply said volume.
14. Where a portion of the building hereafter constructed is more than 600 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the building, on-site fire hydrants shall be provided.
15. Access roads shall be extended to within 150 feet of all portions of an exterior wall on all buildings, portions of buildings, or facilities being considered, as measured by an approved route around the exterior of the building or facility.

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16. The unobstructed width of a fire apparatus access road shall be not less than 20 feet, except for approved security gates. The fire apparatus access road shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.
17. Fire apparatus access roads shall be designed and maintained to support an imposed load of 75,000 pounds and shall be surfaced so as to provide all-weather driving surface.
18. All dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provisions or the turning around of fire apparatus.
19. The turning radius of a fire apparatus access road shall be a minimum of 25 feet inside diameter.
20. Fire department access roads shall not exceed 12% grade.
21. Fire apparatus access and water supply are required for this project. Such access and water supply shall be installed and made serviceable prior to and during the time of construction except when approved alternative methods are provided.
22. Approved vehicle access for fire fighting shall be provided to the construction site.
23. Vehicle access shall be provided by either temporary or permanent roads capable of supporting vehicle loading (75,000 pounds) under all-weather conditions.
24. Vehicle access shall be maintained until permanent fire apparatus access roads are available.
25. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on site.
26. Buildings shall be constructed in accordance with the provisions of the International Building Code, and the International Fire Code, as adopted and enforced by Kitsap County.
27. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
28. Approval of the preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of Kitsap County Code Titles 11 and 12.
29. The information provided demonstrates this proposal is a Major Development as defined in Kitsap County Code Title 12, and as such will require a Site Development Activity Permit (SDAP) from Development Engineering.
30. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 or as amended at the time of SDAP application. The submittal documents shall be prepared by a civil engineer licensed in the State of

Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.

31. Should the proponent propose phasing of the project, a phasing plan shall be submitted to Development Engineering for review and approval. The phasing plan shall, as a minimum, address the following items:

Time tables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization of that specific phase.

The extent of drainage improvements to be installed during the various phases.

32. The water quality BMP shall be sized to provide treatment of the post-developed peak flow rate from the 6-month, 24-hour storm event per the KCSDM Section 6.2.
33. Any project that includes off site improvements that create additional impervious surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with **Kitsap County Code Title 12** or as amended at the time of SDAP application.
34. The Washington State Department of Fish and Wildlife may require a Hydraulic Project Approval for the work required at the proposed outfall.
35. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements. Procurement of any permits or easements necessary to install off-site improvements shall be the responsibility of the project proponent.
36. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Charles Gilman at (360) 407-7451, email [chgi461@ecy.wa.gov](mailto:chgi461@ecy.wa.gov). This permit is required prior to issuance of the SDAP.
37. The design of the infiltration facilities will be according to Section 5.3.5 of the Kitsap County Stormwater Design Manual. Soils exploration shall be performed at the proposed location of the facilities before final design to determine the infiltration rate and depth to seasonal high ground water table and/or impermeable layer. The soil report shall include Particle-Size Analysis performed by ASTM Test Method D-422-63, soil log elevation, and location. The storage volume of the facility shall be adjusted to reflect the true infiltration rates with a safety factor of two applied. A Soils Engineer shall prepare the above information.
38. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities. In addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.

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39. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Engineering.
40. All lots shall use individual on-site infiltration systems. A secondary drainage system may be used on lots where infiltration is not feasible. Prior to final plan acceptance the design engineer shall provide either a design of the individual infiltration systems or the secondary system(s) serving each lot. Maintenance of either of these systems will be the responsibility of the homeowner.
41. Should a Utilities Local Improvement District (U.L.I.D.) for the installation of storm drainage facilities be formed, which includes this property within the ULID boundary, the owners of this property shall be obligated to participate. A covenant shall be recorded before the issuance of Occupancy Permits or plat recording indicating participation in the future ULIDs.
42. Upon completion of the storm drainage facilities, the developer will be required to post a two-year maintenance bond for the facility. The developer will be responsible for providing regular and adequate maintenance during this two-year period and supportive maintenance records. At the end of this time, the County will inspect the system and, when the facility is acceptable and 80% of the homes have been completed, the County will take over maintenance and operation of the system. Wording to this effect must appear on the plat and in the covenants before final recording. Areas proposed to be maintained by the County that are not in the right-of-way must be shown as a separate tract/s or drainage easement/s with Kitsap County being designated as the grantee.
43. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.
44. The impervious area per lot accounted for in the overall drainage facilities installed shall be indicated on the face of the final plat. Additional impervious surfaces created on an individual lot beyond the amount accounted for in the overall drainage facilities shall be mitigated in accordance with Kitsap County Code Title 12.
45. At Building Permit application, submit (KCPW Form 1601) for issuance of a Concurrency Certificate, as required by KCC Section 20.04.030 Transportation Concurrency.
46. Roads shall not exceed 12% grade.
47. The interior roads of the proposed plat shall be designed and constructed in accordance with Kitsap County Code 11.22 and the Kitsap County Road Standards for a local access road or an approved higher standard. Roads shall be publicly maintained and the right-of-way dedicated to Kitsap County as proposed. Note that portions of the roads as shown on the preliminary plat,

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including corner radii and horizontal curves, do not meet the current KCRS and shall be revised as part of the SDAP.

48. Vertical curves shall meet AASHTO sight distance requirements for a 25 mph posted speed.
49. Horizontal curves for public roads shall have minimum centerline radii as outlined in the Kitsap County Road Standards unless a technical deviation is granted.
50. Construction of handicap access facilities within existing or proposed County right-of-way shall conform to the requirements of the Americans with Disabilities Act.
51. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.
52. The property owners (within the plat) shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat map and the accepted construction plans. In addition, Development Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.
53. Provide surveyed cross-sections at 50-foot intervals on Phillips Road SE. The cross-sections should show existing and proposed pavement, shoulders, ditches and slopes. The cross-sections should also depict centerline of pavement and right-of-way, the right-of-way lines, and easements.
54. Frontage improvements shall include extension of curb, gutter and sidewalk from the southern property boundary on Phillips Road SE to the western property boundary on SE Baker Road. Frontage improvements shall meet KCRS and address associated stormwater mitigation improvements.
55. The applicant shall construct a left turn pocket on Phillips Road at the southern most entrance to the plat. This improvement is for SEPA mitigation. The design shall meet Kitsap County Road Standards and shall be constructed as part of the SDAP for the Ridgeline development.
56. The applicants shall pay their fair share towards the cost of design and construction of a future westbound right-turn lane on Phillips Road at the intersection of Phillips Road and Mullenix Road. The right-turn lane will be constructed on the north leg of the intersection for southbound vehicles on Phillips Road turning to go westbound on Mullenix Road. The applicant's fair share is \$20,000, based on December 2007 dollars. An annual inflationary increase equal to the Seattle-Tacoma-Bremerton CPI-U from January through December shall be added to the \$20,000 until the money is paid to Kitsap County. This right-turn lane improvement is not listed on the Kitsap County 6-year Transportation Improvement Program. This payment is for SEPA mitigation and shall be paid prior to issuance of the SDAP.
57. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed

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in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Please denote the design vehicle on the plan set if different than the Kitsap County design vehicle. Existing approaches may need to be improved to meet current standards.

58. Wheelchair ramps shall be provided on both sides of the site approach. Include on the plan set curb ramp details that meet the requirements of the Americans with Disabilities Act per WSDOT Standard Plan F-40 cement concrete sidewalk and approach details.
59. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.
60. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of the access road and SE Baker Road and the access road and Phillips Road SE. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the Kitsap County Road Standards. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.
61. Final plan approval will require documentation of WSDOT approval for impacts to and required mitigation on SR160. The mitigation will consist of an eastbound deceleration right-turn lane on SR160 at Phillips Road SE. The design details are currently under discussion between the applicant and WSDOT. The WSDOT point of contact is Dale Severson at (360) 357-2736;

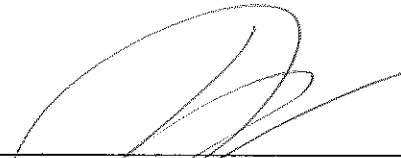
Washington State Department of Transportation  
Development Review Attn: Dale Severson  
PO Box 47440  
Olympia, WA 98504-7440

62. Any work within the County right-of-way shall require a permit to perform work on County right-of-way and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process. The need for and scope of bonding will be determined at that time.
63. A Final Plat Subdivision prepared by a Professional Land Surveyor in compliance with Kitsap County Code Title 16.16.
64. The widths of rights-of-way shall comply with potential classifications and Kitsap County Road Standards. Ten feet for utility easement shall be provided on each side of the rights-of-way.
65. All potential park areas, common open space, buffers and stormwater management areas shall be labeled as separate tracts. The ownership and maintenance shall be addressed on the face of the final plat as well as in the CCRs.
66. The Applicant shall construct a six-foot high solid cedar fence along the plat boundary with the

*Findings, Conclusions, and Recommendation*  
*Kitsap County Hearing Examiner*  
*Ridgeline PP, No. 110609-012*

Simmons property prior to obtaining an occupancy permit for subdivision residences, subject to County review and approval.

Recommended this 5<sup>th</sup> day of July 2011.



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KIMBERLY A. ALLEN  
Kitsap County Hearing Examiner  
Sound Law Center

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COMMUNITY DEVELOPMENT