

# **ILLAHEE COMMUNITY PLAN**

Staff Report

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Policy and Planning Division

## Introduction

The purpose of this report is to provide information to the Planning Commission and Board of County Commissioners regarding the Illahee Community Plan. The Illahee Community Plan document is consistent with language and direction contained in Resolution No. 015-2008 'Relating to Growth Management, Amending the Comprehensive Plan and Map for 2008' and making corresponding amendments to the Kitsap County Zoning Code and Map.

### **RESOLUTION NO. 015-2007 Section B. 1.<sup>1</sup>**

*Area-wide amendments for the 2008 Comprehensive Plan Amendment specifically include the following:*

1. ***Illahee:*** Review and update the Illahee Community Plan located within the Central Kitsap Urban Growth Area (UGA) (2008).

#### **Process:**

- a. *Develop a scope of work for the subject area that outlines the structure of the planning process, the proposed schedule, issues to be addressed and roles of the various participants.*
- b. *Conduct a local community planning process that includes a local advisory committee ideally composed of area residents, interest groups, tribal members and County representatives. In accordance with the Kitsap County Comprehensive Plan, the purpose of this committee is to determine appropriate area-specific land uses, development standards, design guidelines and public service needs. This committee also should consider appropriate area boundaries, appropriate mix of uses, densities and intensities, feasibility, cost and need for public services, significant natural constraints or features to be preserved, provision for a monitoring and evaluation process as well as the benefits to the local community.*

On January 28, 2008, through formal motion (3-0 vote), the Board directed staff to provide an analysis of the Illahee area and to create a Community Plan with potential changes to the Kitsap County Comprehensive Plan and Title 17.

## Location

Illlahee is located northeast of the City of Bremerton and is located within the East Bremerton Urban Growth Area<sup>2</sup>. Illahee is located within Commissioner District 3 and is known for its "park-like" feel. Illahee is the home of the Illahee Preserve, a 400+ acre park and Illahee State Park. The Port of Illahee heavily participates with local citizen groups and maintains a dock that is beloved by Illahee residents.

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<sup>1</sup> Resolution 015-2008

<sup>2</sup> Draft Illahee Community Plan: Figure 2.1

## Public Participation<sup>3</sup>

A community planning process for Illahee began in the fall of 2005, with the intention that the community would be instrumental in the development of the Illahee Community Plan<sup>4</sup>. The public process included numerous public meetings, surveys, email discussions, and staff conversations with citizens and agency representatives as noted below:

- Early Illahee Community Plan public meetings with Department of Community Development staff held throughout 2006 and 2007.
- A draft Illahee Community Plan, drafted by Illahee residents, was delivered to the Department of Community Development on September 15, 2007.
- Staff reviewed the draft Plan and provided comments and suggested changes to the Illahee citizens in the form of a matrix in early January 2008.
- Staff briefed the Board of County Commissioners on the community drafted Plan on January 23, 2008. The staff comment matrix was provided to the Board and Illahee citizens at that meeting.
- Board of County Commissioners 2008 Comprehensive Plan Update Docket for 2008, approved January 26, 2008 directing the analysis of Illahee by the Department of Community Development.
- Ten Illahee Community Plan public meetings with Department of Community Development staff held March 3<sup>rd</sup>, 17<sup>th</sup> and 31<sup>st</sup>, April 15<sup>th</sup>, May 5<sup>th</sup>, 13<sup>th</sup> and 19<sup>th</sup>, June 2<sup>nd</sup> and 16<sup>th</sup> and August 20<sup>th</sup>. An additional meeting will be scheduled after the Kitsap County Planning Commission public hearing.
- Postcard mailings of meeting times and online access for Illahee Online Survey to all property owners within Illahee and within 400 feet of Illahee.
- Articles in the Kitsap Sun.
- Public Meetings with Kitsap County Planning Commission held July 22, 2008 and August 26, 2008.
- Public Distribution of the draft Illahee Community Plan on August 14, 2008.
- Public Hearing with the Kitsap County Planning Commission on September 9, 2008. Planning Commission recommended approval of the plan to the Board of Commissioners unanimously.

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<sup>3</sup> Illahee Community Plan: Section 1.4

<sup>4</sup> Illahee Community Plan: Page 1.1

## Local and Historic Context

Kitsap County adopted its original Comprehensive Plan in 1998 (Comprehensive Plan) and adopted an update of that plan in December, 2006. Illahee is located within the East Bremerton Urban Growth Area, and therefore falls under an Urban Joint Planning Area with the City of Bremerton<sup>5</sup>. Urban Joint Planning Areas are governed under the Kitsap County Wide Planning Policies and they are intended to be used as urban growth management agreements between cities and the County to provide a framework for orderly annexations.

Prior to the adoption of the 1998 Kitsap County Comprehensive Plan, zoning was implemented in Illahee by the following zones:

R-2: Two dwelling units per acre  
R-3: Three dwelling units per acre  
R-5: Five dwelling units per acre  
BG: Business General

It was stated in the invalidated 1996 Comprehensive Plan that these zones were to, “Encourage quality residential development within the allowed density level, which preserves the semi-rural character of the area.”<sup>6</sup> As the 1996 Comprehensive Plan was found invalid due to “semi-rural” zoning not being compliant with the Growth Management Act, zoning in Illahee was changed in the validated 1998 Kitsap County Comprehensive Plan and were as follows:

Urban Restricted: 1-5 dwelling units per acre;  
Urban Low: 5-9 dwelling units per acre;  
Urban Medium: 10-18 dwelling units per acre;  
Urban Commercial; and  
Neighborhood Commercial

In 2006, Kitsap County completed its 10-Year review and evaluation of the Comprehensive Plan<sup>7</sup>. Illahee residents were very involved in the process of the Plan update. Prior to the adoption of the 10-Year Comprehensive Plan Update, the majority of Illahee was zoned Urban Low (5-9 dwelling units per acre) with minimal properties zoned Urban Restricted (1-5 dwelling units per acre) and Urban Medium (10-18 dwelling units per acre). Due to high amounts of public comment, much of Illahee was down-zoned through the 10-Year Comprehensive Plan Update. These down-zones occurred by increasing the amount of Urban Restricted lands and removing the Rolling Hills Golf Course properties from the Urban Growth Area. The Rolling Hills Golf Course properties are now zoned Urban Reserve (1 dwelling unit per 10 acres) and the intent of the down-zone was to reduce stormwater impacts to Illahee Creek.

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<sup>5</sup> 1998 Kitsap County Comprehensive Plan: Page 19

<sup>6</sup> 1996 Kitsap County Comprehensive Plan: Land Use Appendix

<sup>7</sup> RCW 36.70A.130

## Establishing the Illahee Boundary

The boundary of the Illahee Community<sup>8</sup> was determined with guidance taken from the Growth Management Act. Pursuant to the GMA (RCW 36.70A.110), when determining the boundary, the following guidelines were used:

- 1) The need to preserve and enhance the character of existing natural neighborhoods, habitats and communities;
- 2) Physical boundaries such as bodies of water, streets and highways and land forms and contours;
- 3) Prevention of abnormally irregular boundaries;
- 4) Identify any logical governmental or public jurisdictions.

The final Citizen Advisory Group preferred boundary is the current Port of Illahee boundary with two logical extensions:

- 1) The southern-most border: To be consistent with a major street, the southern border is at 30<sup>th</sup> Street.
- 2) To include the South Fork of Illahee Creek, the western border is set at Perry Avenue.

## Illahae Community Plan Components

The elements of the Illahee Community Plan include Introduction, Growth Management and Illahee, Zoning and Development Regulations, Natural Systems, Transportation, Public Infrastructure, Public Facilities and Park and Preservation of Historical and Archaeological Sites. Within these sections, goals and policies are arranged by subject and present the long-term objectives for each Illahee Community Plan element.

Goals are ends toward which the plan is directed. They are usually somewhat general in form and express ideals.

Policies are intermediate milestones on the way to reaching goals. They are expressed in a form that is measurable and achievable.

Key Projects are specific projects that would achieve both goals and policies for the community.

The final element, Implementation and Community Building, proposes specific actions to carry policies and further specifies how the Illahee Community Plan will be applied.

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<sup>8</sup> Illahee Community Plan: Section 2.6

Within the draft Illahee Community Plan are proposed elements and development code proposals which are provided as a result of the community planning process and have been included within the draft plan or have been excluded from the draft plan as a result of the community input. **These items of further discussion and request for guidance and recommendations from the Kitsap County Planning Commission are included below with detailed descriptions of each element.**

## **1. View Protection Overlay Zone**

Within the draft Illahee Community Plan, Department of Community Development (DCD) staff and the Illahee Citizen Advisory Group are proposing a View Protection Overlay Zone (VPOZ)<sup>9</sup>. The purpose of the VPOZ is to protect existing and future views within the Illahee Community Boundary. The proposed VPOZ would limit new structures and remodels to a maximum height of 28 feet and 2 stories. The VPOZ generally includes all eastern sloping properties within Illahee and equates to approximately 45% of all properties within the Illahee Boundary.

Staff and community input were utilized to determine those areas which were not an obvious inclusion or exclusion in the Illahee VPOZ. For example, most parcels on the west side of Viewcrest Drive NE, Fir Drive NE and Rest Place NE are on fairly flat land and do not have the potential for a view. DCD staff, on two separate occasions, traveled the areas by foot and by car to identify which parcels within the Illahee Boundary would benefit from a VPOZ.

The staff analysis indicates that all eastern sloping properties east of Viewcrest Drive NE, Fir Drive NE and Rest Place NE would benefit from a VPOZ either now or in the future. Most of the properties located within the staff and CAG proposed VPOZ have current views of Port Orchard Bay, Bainbridge Island, the Seattle skyline and/or Mount Rainer. Other properties within the proposed VPOZ either have peek-a-boo views or no current view due to vegetation in the area. In the future, views may be available to those properties as trees are taken down for development purposes or by natural occurrences.

The Illahee survey indicated that over 80% of those surveyed support a VPOZ with a height limitation of 28 feet and 2 stories.

## **2. Greenbelt Overlay Zone**

The Greenbelt Overlay Zone<sup>10</sup> proposal would address a number of issues raised by the community in both the community meetings and in the Illahee Online Survey, identifying a desire for more protection of the natural environment and more control over stormwater in the Illahee area. To encourage the retention of

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<sup>9</sup> Illahee Community Plan: Section 3.6

<sup>10</sup> Illahee Community Plan: Section 3.3

vegetated or natural spaces within the Illahee Boundary, the Plan proposes to create a Greenbelt Overlay Zone (IGOZ) through a development code proposal to meet both goals.

The area for the IGOZ was determined by DCD staff and the Illahee CAG. As tools to determine the IGOZ, staff and the CAG utilized the Washington State Growth Management Act, Kitsap County Critical Areas Ordinance, Kitsap County Comprehensive Plan and maps provided to the County by the Washington State Department of Fish and Wildlife. The goal was to create a boundary that would protect the most amount of natural land with minimal impacts to property owners and future development.

Within the IGOZ, zoning would be changed from Urban Restricted (UR) 1-5 dwelling units per acre to Illahee Greenbelt Zone (IGOZ) 1-4 dwelling units per acre. Additionally, vegetation restrictions will be included as well as a 40% maximum impervious surface requirement. The zoning change and impervious surface requirements are meant to aid in stormwater infiltration, which is a noted problem in Illahee. Vegetation restrictions proposed for the IGOZ are intended to protect wildlife habitat.

#### Reduction in Density:

The Growth Management Hearings Board has upheld that 4 dwelling units per acre is a minimum average density for urban growth areas. However, the Growth Board has also ruled that a county may adopt urban zoning that is lower than 4 dwelling units per acre if certain conditions are met. (See *Bremerton I* at 50. “Residential densities below 4 dwelling units per acre may be appropriate in an urban setting to avoid excessive development pressures on or near environmentally sensitive areas.”). In *Litowitz v. City of Federal Way*<sup>11</sup>, the Growth Board ruled that cities may designate areas at densities lower than 4 dwelling units per acre to protect critical areas: “Nevertheless, local governments retain broad discretion in determining specifically how and to what degree they will meet the Act’s mandate to protect critical areas. The GMA provisions cited establish a minimum level of critical areas protection, but do not pre-empt a local government’s discretion to select and effect in its plan a higher level of environmental protection. **The Board holds that when environmentally sensitive systems are large in scope (e.g. a watershed or drainage sub-basin), their structure and functions are complex and their rank order value is high, a local government may also choose to afford a higher level of protection by means of land use plan designations lower than 4 dwelling units per acre**<sup>12</sup>.”

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<sup>11</sup> CPSGMHB No. 96-3-0005, FDO, (July 22, 1996),

<sup>12</sup> *Id.* at \*9 (bolded emphasis in original).

Additionally, in *1000 Friends of Washington v. City of Issaquah*<sup>13</sup> the Growth Hearings Board determined the factors it will consider in determining whether a local jurisdiction has adopted an “appropriate urban density.”

- 1) Contain large scale, complex, high value critical areas that require the additional level of protection provided through lower densities than can be provided by the jurisdiction's existing critical areas regulations [Litowitz test - hydrologically focused].
- 2) Contain limited unique geologic or topographical features that require the additional level of protection provided through lower densities than can be provided by the jurisdiction's existing critical areas regulations [expansion of Litowitz test].
- 3) Contain existing equestrian communities
- 4) Fall within a "phasing area" where the city has adopted an explicit phasing program for the provision of urban services and facilities that limits densities until a date certain, within the Plan's time horizon, when adequate urban services and facilities will be provided.
- 5) Whether the jurisdiction, as a whole, is providing for appropriate net urban densities as required by the goals and requirements of the Act.

The down-zone in the Illahee Greenbelt Overlay Zone appears to meet the Litowitz test and therefore, staff recommends 1-4 dwelling units per acre for the IGOZ.

### **3. Tax Title Strips and Public Rights-of-Way<sup>14</sup>**

The Board of County Commissioners put a moratorium on the sale of tax title strips and public rights-of-way in Illahee, Kingston and Hansville with the requirement that these issues be addressed through Community Plan processes. The Board did this because many citizens in the above mentioned areas were angry that the County would sell land that could be used for public purposes.

Within the Illahee Community Plan process, two meetings were held where tax-title-strips and public-rights-of-way were addressed. Maps were created that indicated where tax-title-strips and public-rights-of-way occurred in Illahee. Staff

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<sup>13</sup> CPSGMHB No. 05-3-0006, FDO, (July 20, 2005)

<sup>14</sup> Illahee Community Plan: Section 3.7

posed the question, “Which tax title strips and public rights-of-way do you not want to be sold?” The answer from the CAG was that they did not want any tax title strips or public rights-of-way to be sold within the Illahee Boundary so that they could be used in the future for trail systems, sidewalks, bike paths etc. However, the CAG voted to include a caveat that would allow property owners who purchased structures on tax title strips or public rights-of-way to purchase the tax title strip or right-of-way. This caveat does not include decks, fences or other structures. Additionally, houses built on tax title strips or rights-of-way after the adoption of the Illahee Community Plan, will not have the option to purchase the tax title strip or right-of way.

## **Findings**

After careful consideration of statutory requirements for Subarea Plans, the following summary of findings are provided to assist/guide the decision making process. Therefore, based on the research conducted for this effort, the findings are as follows:

### **Illahee Findings:**

1. The Illahee Community Plan utilized a community planning process for the designation of the subarea plans and associated community plan elements; and the process included interested parties, community groups and other stakeholders.
2. The Illahee Community Plan proposes changes to zones via a local community planning process and incorporated local knowledge, experience, and preferences to determine appropriate area-specific land uses, development standards and public service needs.
3. The Illahee Community Plan proposed development language, design guidelines, land uses, and zoning regulations which address the Kitsap County Comprehensive Plan Policies of LU-1, LU-14, LU-20, LU-21, LU-22, LU-23, LU-27, LU-31, LU-34, LU-35, LU-37, LU-39, LU-43, LU-44, LU-46, LU-47, LU-51, LU-53, LU-55, LU-56, LU-57, LU-58, LU-60, LU-61, LU-66, LU-69, LU-113, LU-114, LU-115, LU-116, LU-117, LU-119, LU-120, LU-122, LU-125, LU-127, LU-130, LU-131, LU-132, LU-133, LU-134, LU-135, LU-136, LU-137, LU-138-LU-145, LU-152, LU-154, LU-155, LU-156, LU-158, LU-161.
4. The Illahee Community Plan utilized and is consistent with the Kitsap County Critical Areas Ordinance and Chapter Four of the Kitsap County Comprehensive Plan.

**Recommendation: Based on the aforementioned findings, staff recommends approval of the Illahee Community Plan.**