



Notice of Hearing Examiner Decision

01/03/2025

To: Interested Parties and Parties of Record

RE: Project Name: North Beach - Formerly Bucklin Ct- PBD Revision to increase the number of units
North Beach - Shoreline Substantial Development
North Beach - Shoreline Variance
Applicant: Daybreak Development LLC
6141 Troon Ave SW
Port Orchard, WA 98367
Application: PBD REVISION MAJOR
SSDP
SVAR
Permit Number: 22-04212
23-01777
23-01781

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 22-04212: North Beach - Formerly Bucklin Ct- PBD Revision to increase the number of units – PBD REVISION MAJOR, Permit 23-01777: North Beach - Shoreline Substantial Development – SSDP, and Permit 23-01781: North Beach - Shoreline Variance – SVAR** subject to the conditions outlined in this Notice and included Decision.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

<https://www.kitsap.gov/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC: Authorized Agent: Marianne Weber with Sound West Group,
marianne@soundwestgroup.com; Nicholas Baxter with Balance Architects
PLLC, nick@balancearchitects.com

Applicant/Owner: Daybreak Development LLC, kvoshell@ssinvprop.com

Interested Parties:

Kelli Price - Ecology, nwsepa@ECY.WA.GOV; Smith, Kim - Ecology,
kim.smith@ecy.wa.gov; Trudel, Stephanie - Suquamish Tribe,
strudel@suquamish.nsn.us; Evinger, Matthew - Dept of Ecology
Shoreline, MEVI461@ECY.WA.GOV; Jerry Reid, PO Box 307 BELFAIR,
WA 98528

Health District

Public Works

Parks

Navy

DSE

Kitsap Transit

Central Kitsap Fire District

Central Kitsap School District

Puget Sound Energy

Water Purveyor: Silverdale Water

Sewer Purveyor: Kitsap County Sewer

Point No Point Treaty Council

Suquamish Tribe

Port Gamble S'Klallam Tribe

Squaxin Island Tribe

Puyallup Tribe

Skokomish Tribe

WA Dept of Fish & Wildlife-SEPA

WA State Dept of Health

WA Dept of Transportation/Aviation

WA State Dept of Ecology-SEPA

WA State Dept of Natural Resources

WA State Dept of Ecology-Wetland Review

WA State Dept of Ecology- Shoreline

WA State Dept of Transportation

Department of Archaeological Historic Preservation

Prosecutor's Office

Assessor's Office

DCD

Kitsap Sun

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

<p>RE: North Beach Apartments</p> <p>Performance Based Development – Major Revision, Shoreline Variance and Shoreline Substantial Development Permit</p> <p>File No. 23-01781, 23-01777, & 22-04212</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION</p>
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INTRODUCTION

Daybreak Development, LLC requests approval of a major revision to a performance based development (PBD), a shoreline variance (SVAR), and a shoreline substantial development permit (SSDP) to construct a 4-story, 47-unit apartment building with 1-story parking below and additional parking on and off the apartment-site located at 3043 NW Bucklin Hill Road in Silverdale. The subject property is located within the Silverdale Regional Center and Bucklin Hill Design District, as well as the High Intensity Shoreline Designation. The Applicant is requesting a Shoreline Variance to exceed the required shoreline building height 10 feet from 35-feet to 45-feet and PBD revision for the request for additional density, pursuant to KCC 17.450.110. Common open space and public shoreline access is proposed to and at the shoreline. The applications are approved subject to conditions.

In 2015 the Kitsap Hearing Examiner approved a revision to a previously approved Performance Based Development (PBD) (Ex. 3) for the project site. The originally approved PBD was for a mixed-use development with 13 residential dwelling units (du), office, commercial and restaurant space. The originally proposed residential density was 9-14 du/acre. The 2015 Decision altered the original approval. The 2015 Decision approved a residential only development with an increased building footprint. The 2015 approved residential density rose from 13 to 29 du with an approximate

1 density of 29 du/acre. The current proposal is also entirely residential and when
2 compared to the 2015 Decision, increases the residential density, changes the building
3 design, reduces the perimeter setback and reduces the required parking due to the
4 nearby presence of transit. The current proposal is for a 47 du apartment with a
5 residential density of 36 du/acre. The prior Decision approved a variance in the building
6 height from the shoreline jurisdiction maximum of 35-feet increase certain areas of the
7 roofline by three feet. However, that prior approval has expired and is the subject of
8 the present shoreline variance request (Ex. 1, Section 3, page 2).

9 The project is also subject to an Administrative Conditional Use Permit (ACUP) per
10 Kitsap County Code KCC 17.240. The ACUP will be reviewed under a separate review
11 process.

12 **ORAL TESTIMONY**

13 A computer-generated transcript of the hearing has been prepared to provide an overview
14 of the hearing testimony. The transcript is provided for informational purposes only as
15 Appendix A.

16 **EXHIBITS**

17 Exhibits 1-49 listed in the Index to the Record on Pages 8-10 prepared by County staff
18 were admitted during the hearing.

19 **FINDINGS OF FACT**

20 **Procedural:**

- 21 1. Applicant. Daybreak Development, LLC. 6141 Troon Avenue, Port
22 Orchard, WA 98367-9196.
- 23 2. Hearing. The Hearing Examiner conducted a virtual hearing on the
24 application at 9:00 am on December 19, 2024.

25 **Substantive:**

- 26 3. Site/Proposal Description. Daybreak Development, LLC requests approval
27 of a major revision to a performance based development (PBD), a shoreline variance
28 (SVAR), and a shoreline substantial development permit (SSDP) to construct a 4-story,
29 47-unit apartment building with 1-story parking below and additional parking on and
30 off the apartment-site located at 3043 NW Bucklin Hill Road in Silverdale. The subject
31 property is located within the Silverdale Regional Center and Bucklin Hill Design
32 District, as well as the High Intensity Shoreline Designation. The applicant is
33 requesting a Shoreline Variance to exceed the required shoreline building height 10
34 feet from 35-feet to 45-feet and PBD revision for the request for additional density,
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1 pursuant to KCC 17.450.110. Common open space and public shoreline access is
2 proposed to and at the shoreline.

3 In 2015 the Kitsap Hearing Examiner approved a revision to a previously approved
4 Performance Based Development (PBD) (Ex. 3). The originally approved PBD was for
5 a mixed-use development with 13 residential dwelling units (du), office, commercial
6 and restaurant space. The originally proposed residential density was 9-14 du/acre. The
7 2105 Decision altered the original approval. The 2015 Decision approved a residential
8 only development with an increased building footprint. The 2015 approved residential
9 density rose from 13 to 29 du with an approximate density of 29 du/acre. The current
10 proposal is also entirely residential and when compared to the 2015 Decision, increases
11 the residential density, changes the building design, reduces the perimeter setback and
12 reduces the required parking due to the nearby presence of transit. The current proposal
13 is for a 47 du apartment with a residential density of 36 du/acre. The prior Decision
14 approved a variance in the building height to allow certain portions to exceed the
15 minimum height by three feet. However, that prior approval has expired and is the
16 subject of the present shoreline variance request (Ex. 1, Section 3, page 2).

17 The project site is located between the Best Western Plus Silverdale Beach Hotel and
18 the Old Mill County Park in Silverdale. The 1.33-acre subject property is vacant and
19 irregularly shaped, being long and narrow. The site was previously used as a concrete
20 plant.

21 The property receives access from Bucklin Hill Road via an existing four-way
22 intersection and existing traffic signal, with a connecting easement across property to
23 the north. NW Bucklin Hill Road is a minor arterial to Mickleberry Road NW, which
24 is a County maintained local access road.

25 The property and its associated tidelands is on the north shoreline of Dyes Inlet with a
gentle sloping bank. The site has an existing 4-foot-tall rock bulkhead and an existing
6-foot-wide compacted gravel trail. The trail is the Clear Creek Trail, which is located
on the upland side of the bulkhead on the southern portion of the developable side of
the property.

Most of the length of the property is waterward of the ordinary high-water mark
(OHWM). The Shoreline Master Program jurisdiction runs horizontally approximately
halfway through the property. The shoreline consists of anchored logs with both native
vegetation and invasive plants interspersed. The shoreline is exposed and receives
direct sunlight during summer months.

4. Characteristics of the Area. The project is located on Dyes Inlet between the
3-story Best Western Plus Silverdale Beach Hotel to the west and the Old Mill County
Park to the east in Silverdale. To the north and landward is the Silverdale Plaza Retail
Mall, Taco Bell and a bank. The project is near the mouth of Clear Creek. There is an

1 existing trail across the southern portion of the subject site connecting to Old Mill
2 County Park. There is also an existing offsite wetland within the park.

3 5. Adverse Impacts. No significant adverse impacts are anticipated from the
4 proposed variance. A SEPA Mitigated Determination of Non-Significance was issued
5 on November 20, 2104. No appeals were filed, though the Department of Ecology
6 provided a comment (Ex. 43). A condition of approval requires the Applicant to comply
7 with the SEPA Mitigation measure. Specific issues are addressed below.

8 A. Toxic Soils. As conditioned, the project will comply with the Model Toxics
9 Control Act (MTCA). When in use as a concrete plant, 10 feet of fill material
10 was placed over the site. Testing in 2013 testing showed that all contaminants
11 were below cleanup levels. However, the composition and potential toxicity of
12 the fill material is unknown which could present an issue when the below
13 ground parking is constructed (Ex. 43). A condition of approval will require the
14 Applicant to create a MTCA mitigation plan. The toxic soils mitigation plan
15 must identify a sampling regime and schedule, provide for prompt reporting to
16 the Department of Ecology, provide specific health and safety requirements for
17 workers who may encounter contaminated media, and provide for the removal
18 and disposal of contaminated soil, groundwater and/or surface waters from the
19 project area.

20 B. Cultural Resources. As conditioned, no adverse impacts to historical or cultural
21 resources are anticipated. Both the Suquamish Tribe (Tribe) and the
22 Washington State Department of Archeology and Historical Preservation
23 (DAHP) commented on the project (Ex. 21 and 22). DAHP noted the project
24 area has a high risk of containing archeological resources. The Tribe concurred
25 with DAHP's comments and stated the project vicinity was used extensively by
the Suquamish Tribe. Several ethnographic place names were recorded in the
area describing geographic features as well as a Suquamish camping place.
Both the Tribe and DAHP requested the Applicant have a professional
archeologist review the relevant historical and geotechnical information from
the property to develop a Desktop Survey (Overview Report) to determine
which project activities are likely to impact native sediments. They further
requested the Applicant create a Monitoring and Inadvertent Discovery Plan
outlining the planned monitoring procedures and create the Inadvertent
Discovery Plan for activities that do not require monitoring. Finally, the Tribe
and DAHP requested continuing consultation between the Applicant and the
Tribe's cultural committees and staff. Each of these requests has been made a
condition of approval.

C. Views and Aesthetics. As proposed, the project is not anticipated to block views
and will provide for compatible aesthetics to adjacent uses. Staff testified the
project is not in a view protection corridor. The uses to the north of the project
that might have views affected are all retail, commercial and service uses. The

1 Applicant notes there are peek-a-boo views between buildings when driving or
2 walking along Bucklin Hill Road but no fully unobstructed views (Ex. 38, page
7). The County did not receive any comments regarding views.

3 The project itself is creating opportunities for enhanced views by constructing
4 an accessible sitting area and viewing platform within the building setback and
5 by maintaining and enhancing the existing Clear Creek Trail. The proposed
6 lookout area is located on the southwest corner outside of the shoreline buffer.
7 The viewing platform is not anticipated to impact the shoreline buffer functions.
8 Another enhancement to views is the proposed shoreline trail across the
9 southern portion of the developed project site. The Clear Creek Trail runs across
10 the south end of the upland providing access from Old Mill Park to the east and
11 along the Best Western Plus Silverdale Beach Hotel property to the west. The
12 reconstructed and connected trail will also allow for access from the trail to
13 Bucklin Hill Road.

14 As proposed and conditioned, the project will also comply with the design
15 standards of the Bucklin Hill Center District Design Standards, a portion of the
16 Silverdale Design Standards and the Multi-Family Design Standards with
17 respect to site design, fences and walls, lighting, mailboxes, trash and recycling,
18 grading and vegetation, open space, landscape design, parking location and
19 design, screening, and signs.

20 D. Noise. No impacts as a result of noise are anticipated. The project will create
21 short-term noise impacts during construction. Once in operation, the project is
22 required to comply with the County's noise ordinance (Chapter 10.28 KCC)
23 and is not expected to generate significant or adverse noise impacts.

24 E. Building Height and Blockage of Sunlight. No adverse impacts are anticipated
25 resulting from the proposed increase in building height. The minimum building
height in the Bucklin Hill Center portion of the Silverdale regional center and
design district is 35 feet but only when fronting Silverdale Way. The maximum
building height in this district is between 55 and 85 feet. Heights may be
increased through approval of a performance based development (PBD) (KCC
17.420.058, Footnotes 17d and 56). However, the maximum building height in
the Shoreline Master Program is 35 feet which is achievable through a shoreline
variance. The Applicant is requesting a maximum building height of 45 feet.

26 The Department of Ecology expressed concerns about the requested height
27 increase (Ex. 23). Specifically, the initial architectural elevations (Ex. 29, Sheet
28 A3.01) shows a building that is 55'10" from the ground to the roof. The
29 Applicant responded by altering the plans and removing rooftop structures such
30 that the highest point above grade is 45 feet plus 5 feet for the elevator overrun.
31 The elevator is exempt under KCC 17.420.060, Footnote 40. Ecology asked

1 for a shadow survey to demonstrate the proposal would not detrimentally affect
2 shoreline views or critical habitats.

3 The shoreline area of Dyes Inlet is located directly on the south side of the
4 property and will receive sunlight during the entire day throughout the year.
5 The shadowing study found that the proposed 45-foot-tall building will not
6 create shade or shadows within the shoreline environment. Shade and shadows
7 will impact Old Mill Park. The northwest corner of Old Mill Park will receive
8 shade and shadows from the building in the late evening hours. This shading is
9 mitigated with the increased building setback of the primary building and the
10 additional set back at the top story (Ex. 42).

11 The Applicant stated the increase in height would allow the building footprint
12 to be reduced and the lowest elevation to be located above the base flood
13 elevation (Ex. 41). Additionally, reducing the building footprint allows the
14 building to be set back further from the shoreline than the minimum required
15 from between 22 and 27 feet compared with the required 15-foot building
16 setback from the 50-foot shoreline buffer. This allows for increased area for
17 public access and amenities along the shoreline, primarily the Clear Creek Trail.
18 The Applicant further testified that the need for fire access reduces the available
19 building footprint, necessitating a taller structure to accomplish the same
20 residential density (Ex. 7).

21 F. Residential Density and Compatibility. The project's residential density will be
22 compatible with surrounding uses. Densities in the Bucklin Hill Center range
23 from a minimum of 10 du/acre to a maximum of 30/60 du/acre. The higher
24 density is achievable through the performance based development approval
25 (KCC 17.420.058 and KCC 17.420.060, Footnote 56). The project is requesting
a major revision of the existing PBD approval from 29 du/acre to 36 du/acre.
At 36 du/acre, the project is at the low end of the permitted maximum density
range of 30-60 du/acre. The project site is adjacent to the 3-story Best Western
Plus Silverdale Beach Hotel. The project building is a residential multi-family
development with beach facing balconies, open space and pedestrian amenities.
This is very similar in aesthetics to the neighboring hotel use and will therefore
the project density, bulk and appearance will be compatible with the
surrounding uses.

22 G. Critical Areas.

23 1. Wetland. No adverse impacts to wetlands or their buffers are
24 anticipated. There is an offsite wetland on Old Mill Park. The project
25 will be set back beyond the 50-foot wetland buffer and the building and
impervious surface setbacks of 15-feet. The Shoreline No Net Loss
Report (Ex. 38) analyzed the project and found that no impacts to the
wetland are anticipated.

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2. Frequently Flooded Areas. As proposed, no adverse impacts to or from frequently flooded areas are anticipated. The project was reviewed for consistency KCC 19.500 Frequently flooded areas. Kitsap County resource maps identify approximately 40-feet of the property are within the 100-year floodplain (Zone AE) with a Base Flood Elevation of 13 feet. None of the proposed building areas are within the floodplain. Site grading and finished floor elevations have been provided to minimize risk of flood hazard due to potential sea level rise.

3. Geologically Hazardous Areas. As proposed, no impacts from geologically hazardous areas are anticipated. The Kitsap County Resource Map identifies the site as a Severe Erosion Hazard Area. However, there are no slopes along the shoreline. The development will maintain a setback approximately 65 feet from the OHWM and the finished grade will be 13 feet higher than the OHWM. The building is outside the mapped erosion hazard and will avoid erosion hazard impacts. The only activity that will occur in this area is revegetation to mitigate shoreline impacts.

4. Seismic Hazard Areas. As proposed, no impacts from seismic hazards are anticipated. The southern half of the property is mapped as having a Moderate to High susceptibility to liquefaction. The existing fill and alluvium soils at the site are potentially liquifiable during a seismic event. The structure will be designed to resist the effects of earthquake motions and in compliance with the building code. A condition of approval will require the Applicant to implement the recommendations of the geological assessment.

5. Shoreline.
 - i. Impervious Surface in Shoreline Buffer. As designed, the project will reduce the current impact of impervious surfaces in the shoreline buffer. The Department of Ecology expressed concern about the proposed 882sf of impervious surfaces in the shoreline buffer (Ex. 23). The proposal is for a net reduction of impervious surfaces in the shoreline buffer by 345sf from the existing 1,227sf. The impervious surface in the shoreline is largely the existing Clear Creek Trail, a public amenity. The Applicant wishes to retain the trail as part of the PBD criteria but has proposed reducing its width to five feet wide to reduce the impervious surface. The impervious surface impact will be an improvement over the existing condition while retaining an important public amenity.

1 ii. No Net Loss. The proposal will result in no net loss of ecological
2 function. The Applicant submitted a “Shoreline No Net Loss
3 Report” (Ex. 38) prepared by Joane Bartlett a Senior Biologist
4 at Ecological Land Services. The report concludes that as
5 designed, the proposal will result in no net loss of ecological
6 function. The conclusions of the report are uncontested with no
7 information in the record reasonably suggesting a contrary
8 conclusion. Overall, despite the intensity of the proposed use,
9 the proposal results in minimal adverse impacts by stepping the
10 top of the building back away from the shoreline, reducing the
11 impervious surface in the shoreline buffer and building outside
12 of the shoreline on existing impervious surfaces. A condition of
13 approval will require the project to create a Model Toxic Control
14 Act mitigation plan as described in Finding of Fact No. 5A. The
15 No Net Loss Report concluded that because there are no buffer
16 reductions and no encroachments in the buffer, the project does
17 not require mitigation to achieve no net loss of shoreline
18 functions (Ex. 38, Page 8).

19 iii. Navigation. No work will be done within navigable waters and
20 the proposal thus will have no impact upon navigation.

21 6. Adequacy of Infrastructure and Public Utilities. The proposal will be
22 adequately served by public infrastructure. In general, the streets, sidewalks, storm
23 drainage facilities, and sewer mains will be required to meet the County’s design
24 standards during engineering review and shall be required to meet and implement those
25 standards prior to final administrative conditional use approval. These facilities will be
26 reviewed as part of the facility extension, grading, and civil plans to be submitted by the
27 Applicant. The following more specifically addresses other infrastructure and services:

28 A. Water. Adequate provisions are made for potable water service. Potable water
29 will be provided by the Silverdale Water District. Conditions of approval will
30 require the applicant to provide either binding water letters or proof of a
31 construction agreement for a main extension prior to building permit approval.

32 B. Sewer. Adequate provisions are made for sewer service. The project will be
33 served by Kitsap County Wastewater for sewer service. The Applicant must
34 provide a complete set of sewer plans, profiles and specifications designed in
35 accordance with Kitsap County Public Works – Sewer Utility Division
36 Standards and Regulations. A condition of approval will require the Applicant
37 to provide either binding water letters or proof of a construction agreement for
38 a main extension prior to a Sewered Building Clearance approval.

39 C. Drainage. As conditioned, adequate provisions have been made for drainage and
40 will result in no adverse impacts to environmental features. The Applicant

1 submitted a Stormwater Drainage Civil Plan (Ex. 39). The project will direct
2 discharge into Dyes Inlet. Flow control is not required. For water quality
3 stormwater will enter the proprietary water quality devices where drainage will
4 be filtered then piped into Dyes Inlet by way of existing point of discharge. The
County's Development Engineering reviewed the proposal and finds the concept
supportable in its approach to civil site development as conditioned.

5 D. Solid Waste. Adequate provisions have been made for solid waste disposal.
6 Solid Waste/Recycling enclosures are proposed along the north side of the parcel
7 and have been located throughout the site. The project has been conditioned for
8 compliance with solid waste requirements and approval from Waste
9 Management. Based on the comment letter by DOE, if contamination is
10 discovered the Health District Solid Waste Division may coordinate with the
11 State for cleanup. Any fill to be removed must follow Kitsap Public Health
District standards for disposal of hazardous soils. Conditions of approval will
require solid waste enclosures to be covered and placed on an impervious
surface. Enclosures will be directly connected to sewer system, where feasible.
If direct connection to sewer is infeasible, the enclosure shall be sloped to drain
into a dead-end sump.

12 E. Access and Circulation. The development as proposed provides for adequate
13 vehicular and pedestrian access and circulation. The development site receives
14 access from the north via a driveway from NW Bucklin Hill Road, which is
15 classified as an urban collector. The private access aligns with the traffic signal
16 for Silverdale Plaza on the north side of NW Bucklin Road. The development
17 receives vehicular and pedestrian access from an easement across the
commercial property to the north. As the drive enters the property the width
increases to 26 feet to accommodate the required fire apparatus access width for
maneuvering space as reviewed and approved by the Fire Marshall.

18 Several provisions are made for pedestrians. The pedestrian oriented open space
19 incorporates walkways, hard and vegetated surfaces, and accommodates a range
20 of outdoor activities along the shoreline. Due to the sensitive nature of the
21 shoreline, the amenities and hard surfaces are kept to a minimum. Included is an
accessible sitting/viewing area, native plantings, a walking trail, and kayak
storage. There are internal sidewalks as well as the Clear Creek Trail pedestrian
amenity along the shoreline.

22 F. Parking. Adequate provisions have been made for parking. The required parking
23 ratio for multifamily developments is 1.5 parking stalls per dwelling unit and 0.5
24 surface parking spaces along the right of way for a combined total of 2.0 parking
25 spaces per unit (KCC 17.490.030). A total of 95 parking spaces is required. The
Applicant requested a 25% reduction in the number of required parking spaces
to 76 total spaces in accordance with KCC 17.490.030.A.1, which allows the
director to reduce the required parking when transit is available. The Applicant's

1 Traffic Impact Analysis (Ex. 19) concluded the code required parking exceeds
2 the likely need due to the proximity and availability of public transit. Staff agree
3 the requested reduced parking is sufficient based on the nearby availability of
4 transit. A bus stop is located within 300 feet of the project site. There is an
5 existing route connecting to the Silverdale Transit center with a bus arriving
6 approximately every hour. The Applicant has demonstrated the parking
7 reduction is supported with the pedestrian access to the adjacent Kitsap Transit
8 facilities on NW Bucklin Hill Road. Retail and service amenities are within
9 walking distance of the project.

10 As described in the staff report, the proposed structured parking is consistent
11 with the Silverdale Design Standards (Ex. 1, Page 14).

12 G. Traffic. As proposed, the project has made adequate provisions for traffic. The
13 Traffic Impact Analysis (Ex. 19) determined the development will generate 178
14 new average daily trips with 9 AM Peak Hour and 19 PM Peak Hour trips. The
15 analysis determined all of the study intersection are anticipated to operate at an
16 acceptable level of service in the as built scenario. The Applicant will be
17 required to pay applicable traffic impact fees at the time of building permit
18 issuance.

19 H. Frontage Improvements. Adequate provisions are made for pedestrian
20 improvements. The project does not front on a public right of way and therefore
21 does not require frontage improvements. The project provides a landscaped front
22 yard setback with pedestrian and vehicular access to NW Bucklin Hill Road via
23 a driveway from NW Bucklin Hill Road.

24 I. Landscaping and Screening. As conditioned, the project provides adequate
25 landscaping and screening. The Applicant provided a Landscape Plan (Ex. 32).
The project includes 40,762sf (70%) of impervious area and 22,024sf of
pervious area. Perimeter, internal and shoreline buffer plantings are provided.
Staff determined the landscape plan is consistent with the minimum landscaping
requirements. Landscaping and supporting elements such as trellises, planters,
site furniture and other similar features have been incorporated in the project
design. Trellises are located along the west building façade to support climbing
ivy used to break up the blank wall façade. Built-up planters are provided along
the north façade. Perimeter planting is provided at the upper story along the
perimeter of the common area. Plantings that require low amounts of water,
chemicals and fertilizers are proposed. Open areas are landscaped to the greatest
extent feasible. Perimeter decorative security fencing located around the
courtyard area is located within planters to serve also as trellis elements. A new
bench with adjacent accessible space has been provided along the Clear Creek
Trail. Landscaping along the shoreline will be maintained to prevent the growth
of invasive species.

1 A partial screening buffer pursuant to KCC 17.500.027.A is required between
2 compatible uses. Ex. 29 demonstrates a separation buffer on the west property
3 line. However, the staff report suggests most of the vegetation proposed along
4 the west property line will be removed (Ex. 1, Page 28). No further information
5 for this vegetation screening buffer reduction is provided other than to note the
6 proposal includes the reduction of the setback buffer/setback along the wet
7 property line from ten to five feet. A condition of approval will require the
8 Applicant to submit a final planting plan consistent with KCC 17.500.027.A.

9
10 J. Schools. As conditioned, adequate provision is made for schools. The project
11 site is served by Central School District No. 400. KCC 4.110.080 and KCC
12 4.110.550 provide for an interlocal agreement with school districts and impact
13 fee accounts for schools to ensure that school services are adequately provided.
14 A condition of approval will require the development to pay all required school
15 impact fees.

16 K. Open Space and Recreation Amenities. The project provides adequate open
17 space and recreational amenities. Common open space and public shoreline
18 access is proposed to and at the shoreline. The project will provide 8,690sf of
19 open space, consistent with the code requirements. The Applicant is providing
20 4,656sf of recreational space, which is 60% more than is required. This centrally
21 located, pedestrian oriented open space encompasses 15% of the lot. The open
22 space is oriented towards the Dyes Inlet shoreline. The building mass is oriented
23 towards the inlet as well as Clear Creek and the adjacent Old Mill Park.

24 The project includes active open space through the 4,656sf shoreline area
25 resident gardens and 4,573sf courtyard. The pedestrian oriented open space
incorporates walkways, hard and vegetated surfaces, and accommodates a range
of outdoor activities along the shoreline. Walkways connect the open spaces to
the multifamily development, parking areas, and adjacent neighborhoods. A
variety of activities for all age groups in the active recreation open space areas
has been incorporated such as resident gardens, covered outdoor lounge, water
feature, flex space, patio and deck spaces, secure bicycle storage, common deck
with BBQ areas and fire pit, a lookout area with view of Dyes Inlet, kayak
storage, as well as a multi-purpose flex space for various program activities. Due
to the sensitive nature of the shoreline, the amenities and hard surfaces are kept
to a minimum.

26 L. Fire Protection. As conditioned, adequate provisions are made for fire
27 protection. The project will be served by Central Kitsap Fire and Rescue. The
28 Silverdale Way Fire Station #51 will be the primary responder for this
29 development. The project has been reviewed by the Fire Marshall. Individual
30 parking clusters are separated by a 6-foot-wide sidewalk and planting area
31 consistent with the width required for pedestrian crossings. As an alternative to
32 providing an 8-foot-wide sidewalk, wheel stops are provided along this area to

1 ensure the 6-foot width is not encroached by vehicles. The 6-foot width is
2 necessary to accommodate the additional width required for fire apparatus
3 access maneuvering clearances. The entry drive will be 26 feet wide to
4 accommodate fire apparatus requirements. Several conditions of approval
5 address fire safety including fire flow, fire lanes, fire hydrants and fire
6 suppression systems.

7 7. Minimum Necessary. The requested variance is the minimum necessary to
8 afford relief. As noted above in Finding of Fact No. 5F, the maximum residential
9 density in the zone is 60 du/acre. This project requests 36 du/acre and a building height
10 that does not require a zoning variance but does require a shoreline variance. In order
11 to achieve the density of the underlying zone while also accomplishing the required
12 performance based development standards, the proposed building height must be
13 increased. Also, because of the lack of right of way access, the building must have a
14 reduced footprint which necessitates the taller structure. As noted in the No Net Loss
15 Report (Ex. 38), there will be no impacts to the ecological functions of the shoreline.

16 8. Special Circumstances. Special circumstances necessitate the proposal
17 because the underlying zoning allows for higher densities and building heights to
18 support the Bucklin Hill Center design district within the Silverdale Regional Center.
19 Though the shoreline master program limits building heights to 35 feet without a
20 variance, the underlying zoning sets maximum building heights of 55 feet without
21 approval of a PBD and 85 feet with it.

22 The higher densities of the zone under a PBD also require a taller structure given the
23 width of the lot and the required fire access. The property is landlocked and does not
24 front any right-of-way. Because there is no right-of-way adjacent to at least one side of
25 the property, fire apparatus access must be provided on site to more than one side of
the structure. This creates a unique condition which requires a significant portion of the
property to be given over to fire apparatus access roads for proper access around all
sides of the proposed structure. This significantly limits the footprint of the structure
that would otherwise normally be permitted.

The only feasible way to meet the requirements of the design district while also
providing adequate emergency services access is to increase the building height.

9. Practicable Alternatives. No practicable alternatives exist for the proposal.
The Applicant has altered the proposal to ensure there is no net loss of ecological
function by stepping the building back away from the shoreline. The narrow lot shape
precludes any other design while still meeting the requirements of the underlying zone
and design district.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. KCC 17.450.110.A.2 and KCC 21.04.100.27 grant the hearing examiner authority to issue a final land use decision for major revisions to performance based subdivisions. KCC 21.04.100.27 list this action as a Type III process whereas KC 17.450.110.A.2 defines major revisions to an approved performance based development as a Type II process when that process is not associated with a subdivision. KCC 21.04.100.13 and KCC 22.500.100.E.2 classify shoreline variances as Type III process. As outlined in KCC 21.04.110, the Type III process authorizes the hearing examiner to issue a final land use decision for the County after holding a public hearing. The shoreline substantial development permit and the revision to the approved performance based development are Type II review processes (KCC 21.04.100.12). All three decisions, the amendment to the performance based development approval, the shoreline variance and the shoreline substantial development permit have been consolidated for review as a Type III review as authorized by KCC 21.04.180.A and KCC 22.500.100.A.3.

Substantive:

2. Zoning/Shoreline Designation. The subject property is located within the Silverdale Regional Center zoning district and the Bucklin Hill Design District, as well as the High Intensity Shoreline Designation of the Shoreline Master Program.

3. Review Criteria. KCC 17.450.050 governs the criteria for approval of a Performance Based Development and for major revisions to an approved performance based development. KCC 22.500.100.B.3 sets the criteria for approval of shoreline substantial development permits. KCC 22.500.100.E.4 governs the criteria for shoreline variances for projects landward of the ordinary high-water mark. Applicable criteria are quoted below in italics and applied via corresponding conclusions of law. The staff report identifies that the height variance requires a shoreline variance.

Shoreline Substantial Development Permit

The proposal necessitates a shoreline substantial development permit because it qualifies as substantial development within the shoreline jurisdiction. *See* KCC 22.500.100.B.1. KCC 22.150.605 defines substantial development as any development that exceed a fair market value of \$7,047.00. The proposal for a 47-unit apartment building presumably exceeds this value. KCC 22.500.100.B.3 sets the criteria for SSDPs, providing that an SSDP be granted only when “*the applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Act [Shoreline Management Act] and this program, as well as criteria in WAC 173-27-150.*” As pertinent, WAC 173-27-150 requires conformance to the use regulations of the County’s shoreline master program in addition to its policies.

1 4. The proposal is found to comply with all applicable SSDP criteria. It is
2 found to comply with SMP policies for the reasons identified in Section 10q of the staff
3 report. It's found to comply with general SMP regulations for the reasons identified at
4 Pages 29-30 of the staff report and Finding No. 5 of this decision. The project is a multi-
5 family development, a permitted use in the High Intensity shoreline zone. This type of
6 use is subject to the specific "residential" SMP use regulations of KCC 22.600.170.
7 The proposal conforms to those regulations for the reasons identified in Pages 30-32 of
8 the staff report. The findings of the staff report in support of these conclusions are
9 adopted by this reference. The proposal is found to conform to the policies of the
10 Shoreline Management Act because it creates no significant adverse impacts as
11 determined in Finding of Fact No. 5, including because it results in no net loss of
12 ecological function, has no impact on navigation and creates no adverse aesthetic
13 impacts.

14 **Performance Based Development – Major Revision**

15 KCC 17.450.110.B.2 defines a major revision to an approved performance based
16 development as any proposed change that includes, amongst other things, substantial
17 relocation of buildings, parking or streets, a reduction in a perimeter setback, an
18 increase in residential density, an increase in gross floor area of a multifamily project
19 greater than 10%, or any increase in structure height (KCC 17.450.110.B.2.a, b, c, d,
20 and h). The project changes the approved parking from 66 off-street surface parking
21 spaces to 76 off-street parking spaces in a structured parking facility under the building,
22 increases residential density from 29 to 47 units, reduces perimeter setbacks on the
23 western property line from 10 to five feet, increases the approved structural square
24 footage of the building from 31,287sf to 76,727sf, and reduces the required landscaping
25 on the western side (Ex. 1). The KCC does not identify what review criteria apply to a
major revision. In the absence of any express review criteria it must be concluded that
the criteria for an initial PBD applies, i.e. KCC 17.450.050. Otherwise of course
applicants unable to conform to such criteria in the first instance would simply
circumvent the criteria by deferring noncompliant design parameters to a major
revision. Compliance with the applicable review criteria for the proposed major
revision to the approved performance based development is as described below¹.

¹Though the Administrative Conditional Use Permit review is not a portion of this
Decision, the staff report identifies the project's compliance with KCC 17.540.040 (Ex.
1, pages 35-37 under Findings). The staff report also demonstrates the project qualifies
as a major vs. a minor revision of a performance based development (KCC
17.450.110.B.2) but does not apply the decision criteria of KCC 17.450.050 (Ex. 1,
pages 27-28 under Major Revision to a Performance Based Development). However,
the record is adequate to determine compliance with the performance based
development review and decision criteria.

1 **KCC 17.450.050 Decision Findings:** *In recommending approval of the preliminary*
2 *development plans for a performance based development, conditionally or otherwise,*
3 *the hearing examiner shall first make a finding that all of the following conditions exist:*

4 *A. The design of the PBD meets the requirements of this section, other sections of the*
5 *county code and the goals and policies of the Comprehensive Plan and the site is*
6 *adequate in size and character to accommodate the proposed development;*

7 5. These criteria are satisfied. As conditioned and proposed, the project
8 complies with the Performance Based Design criteria cited in KCC 17.450.050 as
9 described in Finding of Fact No. 5 and 6. The project will comply with the underlying
10 zoning and performance standard requirements of KCC Chapter 17.420 Density,
11 Dimensions, and Design, specifically sections KCC 17.420.030 with respect to
12 landscaping, buffering screening, exterior lighting, access and circulation, and solid
13 waste. (See Ex. 1, pages 5-6, 12-15 and 26-27 adopted herein as if set forth in full.)

14 The project will provide pedestrian access to transit stops along NW Bucklin Hill Road
15 consistent with the transportation policies of the Silverdale Subarea Plan (Ex. 1, pages
16 7-8). The project will also comply with the design standards of the Bucklin Hill Center
17 District Design Standards, a portion of the Silverdale Design Standards as described on
18 Pages 15-22 of the Staff Report adopted herein as if set forth in full. As described in
19 the Staff Report, the project as conditioned will comply with the Multi-Family Design
20 Standards set forth in KCC Chapter 17.470 with respect to site design, fences and walls,
21 lighting, mailboxes, trash and recycling, grading and vegetation, open space, landscape
22 design, parking location and design, screening, and signs as described in the Staff
23 Report (Ex. 1, Pages 22-24, adopted herein as if set forth in full).

24 Critical areas will be protected as described in Finding of Fact No. 5G. As conditioned,
25 the project will provide for adequate utilities (solid waste, water, and sewer) and fire
protection (Finding of Fact No. 6).

The proposal complies with the goals and policies of the Comprehensive Plan as
described in Section 7 of the staff report, adopted herein as if set forth in full (Ex. 1,
pages 6-7 under Policies and Regulations Applicable to the Subject Proposal and 35
under Findings).

KCC 17.450.050.B. *The design of the PBD is compatible with neighboring conforming
land uses. An assessment of compatibility shall include, but not be limited to, the
consideration of association with adjacent land uses and the proposed project's effects
on existing views, traffic, blockage of sunlight, and noise production;*

6. This criterion is satisfied. As conditioned, the project will be compatible
with neighboring land uses as described in Finding of Fact No. 5. The project is not
anticipated to block existing views. The Traffic Impact Analysis (Ex. 19) demonstrates
there will be no significant changes to the level of service at the adjacent signalized

1 intersection. The project is stepped back and is not anticipated to block sunlight either
2 to the nearby park or the shoreline. Other than short term construction noise, the project
is not expected to create adverse impacts to neighboring properties with respect to
noise.

3 **KCC 17.450.050.C.** *If the development is phased, each phase of the proposed*
4 *development shall meet the requirements of this chapter;*

5 7. This criterion is satisfied. The project does not include phasing.

6 **KCC 17.450.050.D.** *The site for the proposed use relates to streets and highways*
7 *adequate in width and pavement type to carry the quantity and kind of traffic generated*
8 *by the proposed use;*

9 8. This criterion is satisfied. The Traffic Impact Analysis (Ex. 19)
10 demonstrates there will be no significant changes to the level of service at the adjacent
signalized intersection.

11 **KCC 17.450.050.E.** *The proposed and/or existing public facilities and utilities are*
12 *adequate to serve the project; and*

13 9. This criterion is satisfied. Adequate provisions have been made for utilities
and infrastructure as well as public services as described in Finding of Fact No. 6.

14 **KCC 17.450.050.F.** *The establishment, maintenance, and/or conduct of the use for*
15 *which the development plan review is sought will not, under the circumstances of the*
16 *particular case, be detrimental to the health, safety or welfare of persons residing or*
17 *working in a neighborhood of such use and will not, under the circumstances of the*
18 *particular case, be detrimental to the public welfare, injurious to property or*
19 *improvements in said neighborhood, or contrary to orderly development.*

20 10. This criterion is satisfied. The County determined that, with conditions, the
21 proposed project would not have probable, significant adverse environmental impacts.
The Applicant will enhance the nearby shoreline and install trail connectors linking the
project with the Clear Creek Trail system. Traffic impacts from the proposed project
would be slight enough to require no mitigation. Sufficient parking is provided.

22 **KCC 17.450.050.G.** *Innovations and/or public benefits shall be commensurate with*
23 *the code modifications proposed.*

24 11. This criterion is satisfied. The innovative and public benefits of the PBD
25 are commensurate with the code modifications proposed. The Applicant would create
a pedestrian and transit friendly multi-family housing complex with ready access to
local businesses and bus routes. As conditioned, no adverse impacts are anticipated.

1 The shoreline will be enhanced. The public will gain beach access and connections to
2 an existing trail system.

3 **Shoreline Variance for Height**

4 **KCC 22.500.100.E.4.a:** *That the strict application of the bulk, dimensional or
5 performance standards set forth in Chapters 22.400 and 22.600 precludes, or
6 significantly interferes with, reasonable use of the property;*

7 12. Criterion met. The criterion is met. For the reasons identified in Findings of Fact
8 No. 7-9, the proposed height increase is the only means of complying with the
9 underlying zoning and design district standards while also providing for adequate
10 emergency access. The project has been designed to provide no net loss of ecological
11 function while also providing minimal impact to the adjacent wetland or the general
12 use of Old Mill Park and while maintaining the public amenity of Clear Creek Trail.

13 **KCC 22.500.100.E.4.b:** *That the hardship described in subsection (E)(1) of this
14 section is specifically related to the property, and is the result of unique conditions
15 such as irregular lot shape, size, or natural features and the application of this
16 program, and, for example, not from deed restrictions or from the actions of the
17 applicant or a predecessor in title;*

18 13. Criterion met. The criterion is met for the reasons identified in Conclusion of Law
19 No. 4 and 5.

20 **KCC 22.500.100.E.4.c:** *That the design of the project is compatible with other
21 authorized uses within the area and with uses planned for the area under the
22 Comprehensive Plan and this program, will not cause net loss to shoreline ecological
23 functions and does not conflict with existing water-dependent uses;*

24 14. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
25 5F.

KCC 22.500.100E4d: *That the variance will not constitute a grant of special
privilege not enjoyed by the other properties in the area;*

15. Criterion met. The criterion is met. The Applicant needs the variance to comply
with the underlying zoning density, design standards and public safety requirements.
That is a right entitled to others either as a permitted use or via variances and
modifications.

KCC 22.500.100E4e: *That the variance requested is the minimum necessary to
afford relief; and*

16. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
7.

1 **KCC 22.500.100.E.4.f:** *That the public interest will suffer no substantial detrimental*
2 *effect.*

3 17. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
4 5.

5 **DECISION**

6 Based upon the conclusions of law above, the major revision to the performance based
7 development, the shoreline variance and shoreline substantial development permit
8 applications are approved subject to the following conditions:

8 **Planning/Zoning**

- 9 1. All required permits shall be obtained prior to commencement of land
10 clearing, construction and/or occupancy.
- 11 2. Landscaping shall be installed and maintained in conformance with the
12 requirements of Kitsap County Code (KCC) 17.500. Landscaping shall be
13 installed and inspected prior to requesting a final inspection, or guaranteed by
14 means of an assignment of funds or bonded in the amount of 150 percent of
15 the cost of installation.
- 16 3. All signage design and location (including exempt signs) shall comply with
17 Kitsap County Code (KCC) 17.510 and be reviewed and approved by the
18 Department of Community Development prior to installation. Signage may
19 require a separate permit.
- 20 4. The uses of the subject property are limited to the uses proposed by the
21 applicant and any other uses will be subject to further review pursuant to the
22 requirements of the Kitsap County Code (KCC). Unless in conflict with the
23 conditions stated and/or any regulations, all terms and specifications of the
24 application shall be binding conditions of approval. Approval of this project
25 shall not, and is not, to be construed as approval for more extensive or other
utilization of the subject property.
5. The decision set forth herein is based upon representations made and exhibits
contained in the project application (49 Exhibits). Any change(s) or
deviation(s) in such plans, proposals, or conditions of approval imposed shall
be subject to further review and approval of the County and potentially the
Hearing Examiner.

- 1 6. The authorization granted herein is subject to all applicable federal, state, and
2 local laws, regulations, and ordinances. Compliance with such laws,
3 regulations, and ordinances is a condition to the approvals granted and is a
4 continuing requirement of such approvals. By accepting this/these approvals,
5 the applicant represents that the development and activities allowed will
6 comply with such laws, regulations, and ordinances. If, during the term of the
7 approval granted, the development and activities permitted do not comply
8 with such laws, regulations, or ordinances, the applicant agrees to promptly
9 bring such development or activities into compliance.
- 10 7. The PBD Major Amendment approval is guided by the Shoreline permit
11 procedure and shall become void if no building permit application for the
12 apartment building is applied and accepted as complete, by the Department of
13 Community Development within two (2) years and completed in five (5) years
14 from the date of the Hearing Examiner's decision and resolution of any
15 appeals.
- 16 8. The Applicant is required to pay all relevant impact fees including for roads,
17 parks and schools.
- 18 9. The Applicant shall submit a final planting plan consistent with KCC
19 17.500.027.A.

20 **Development Engineering**

- 21 10. Construction plans and profiles for all roads, storm drainage facilities and
22 appurtenances prepared by the developer's engineer shall be submitted to
23 Kitsap County for review and acceptance. No construction shall be started
24 prior to said plan acceptance dated July 10, 2024.

25 Stormwater

11. The information provided demonstrates this proposal is a Large Project as
defined in Kitsap County Code Title 12, and as such will require a Full
Drainage Site Development Activity Permit (SDAP) from Development
Engineering.
12. Stormwater quantity control, quality treatment, and erosion and sedimentation
control shall be designed in accordance with Kitsap County Code Title 12
effective at the time the SDAP (or Building Permit if no SDAP required)
application is deemed fully complete. 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 Code in
effect at the time of SDAP application, or Building Permit if an SDAP is not
required.

- 1 13. A Hydraulic Project Approval (HPA) permit may be required for work below
2 the ordinary high-water mark or associated with the outfall. Prior to SDAP
3 approval, the applicant shall submit an approved HPA from the Washington
4 Department of Fish and Wildlife (WDFW), or documentation from WDFW
5 specifying that a HPA is not required. Information regarding HPA's can be
6 found at <http://www.wdfw.wa.gov/hab/hpapage.htm> or by calling the Office
7 of Regulatory Assistance at (360) 407-7037.
- 8 14. The site plan indicates that greater than 1 acre will be disturbed during
9 construction. This threshold requires a National Pollutant Discharge
10 Elimination System (NPDES) Stormwater Construction permit from the State
11 Department of Ecology. More information about this permit can be found by
12 calling Alyssa Brewer at (564) 669-4922, email alyssa.brewer@ecy.wa.gov
13 or at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/html>.
14 This permit is required prior to issuance of the SDAP (See Exhibit-27).
- 15 15. The owner shall be responsible for maintenance of the storm drainage
16 facilities for this development following construction. Before requesting final
17 inspection for the SDAP (or for the Building Permit if an SDAP is not
18 required) for this development, the person or persons holding title to the
19 subject property for which the storm drainage facilities were required shall
20 record a Declaration of Covenant that guarantees the County that the system
21 will be properly maintained. Wording must be included in the covenant that
22 will allow the County to inspect the system and perform the necessary
23 maintenance in the event the system is not performing properly. This would
24 be done only after notifying the owner and giving him a reasonable time to do
25 the necessary work. Should County forces be required to do the work, the
owner will be billed the maximum amount allowed by law.
- 16 16. If the project proposal is modified from that shown on the site plan approved
17 for this permit application, Development Engineering will require additional
18 review and potentially new conditions (See Exhibit-27).

20 **Environmental**

- 21 17. Vegetation planting shall occur as specified in the approved planting plan
22 produced in support of this permit. Planting of native vegetation shall occur
23 within the first dormant season once the permitted project has been
24 constructed and approved. When planting is complete, the applicant must
25 contact Development Service and Engineering Staff at (360) 337-5777 for a
site inspection and as-built approval. Monitoring and maintenance of the
planted area shall be conducted for three years after DCD staff approves
planting. Monitoring includes live and dead vegetation counts and records of
all maintenance activities. Maintenance activities can be defined as, but are

1 not limited to, removal practices on invasive or nuisance vegetation and
2 watering schedules. Monitoring information shall be summarized in a letter
3 with photographs depicting conditions of the vegetation and overall site.
4 Monitoring reports are due to Kitsap County Department of Community
5 Development Services and Engineering Division by December 31 of each
6 monitoring year. If more than 20 percent of the plantings do not survive within
7 any of the monitoring years, the problem areas shall be replanted and provided
8 with better maintenance practices to ensure higher plant survival.

6 18. A 50-foot-foot native vegetation buffer must be maintained along the
7 delineated wetland boundary as depicted on the approved site. In addition, a
8 building or impervious surface setback line of 15 feet is required from the
9 edge of the buffer.

9 19. A 50-foot native vegetation buffer must be maintained landward of Ordinary
10 High Water, as depicted on the approved site plan. In addition, a building or
11 impervious surface setback line of 15 feet is required from the edge of the
12 buffer (See Exhibit-25).

11 20. The Applicant shall create a Model Toxics Control Act mitigation plan. The
12 toxic soils mitigation plan must identify a sampling regime and schedule,
13 provide for prompt reporting to the Department of Ecology, provide specific
14 health and safety requirements for workers who may encounter contaminated
15 media, and provide for the removal and disposal of contaminated soil,
16 groundwater and/or surface waters from the project area.

16 **Traffic and Roads**

17 21. At building permit application, submit Kitsap County Public Works Form
18 1601 for issuance of a concurrency certificate, as required by Kitsap County
19 Code 20.04.030, Transportation Concurrency.

19 22. Any work within the County right-of-way shall require a Public Works permit
20 and possibly a maintenance or performance bond. This application to perform
21 work in the right-of-way shall be submitted as part of the SDAP process, or
22 Building Permit process, if a SDAP is not required. The need for and scope
23 of bonding will be determined at that time.

22 **Fire Safety**

23 23. At the time of building plan approval, a fire flow letter from the water district
24 shall be provided to the fire marshal office stating they can provide the
25 required fire flow as required.

- 1 24. No Parking - Fire Lane signage or red curbing with white lettering "No
parking - Fire Lane" shall be provided at all areas not designated as parking.
- 2 25. Fire hydrants shall be installed and operational prior to any combustible
material being placed on site.
- 3
- 4 26. This project will require a fire suppression system; standpipe system; and a
fire alarm system.

5 **Solid Waste**

- 6 27. Prior to SDAP approval, applicant shall provide documentation from the solid
7 waste/recycling service provider that their requirements for this project have
8 been met. Waste Management Northwest can be reached at
pnwcmsservices@wm.com or 1-800-592-9995; their website is
9 <http://wmnorthwest.com/kitsap/index.html>
- 10 28. The SDAP submittal shall show solid waste dumpster location, method for
11 securing the enclosure gates in an open position and pad sizes on the civil
12 plans submitted for approval. Details of the enclosure, including interior
13 dimensions, building materials and lighting must be included with the civil
14 plans prior to final approval. These details may be architectural drawings
15 attached to the civil plans. Provided area must accommodate a minimum 6-
16 yard dumpster.
- 17 29. The SDAP submittal shall show at least 150 square feet of exterior recyclable
18 materials storage space for the project. Describe collection containers and
19 show their locations, method for securing the enclosure gates in an open
20 position and pad dimensions on the civil plans submitted for approval. Details
21 of the enclosure, including interior dimensions, building materials and
lighting must be included with the civil plans prior to final approval. These
details may be architectural drawings attached to the civil plans.
- 22 30. Solid Waste enclosures shall be covered and placed on an impervious surface.
Enclosures shall be directly connected to sewer system, where feasible. If
direct connection to sewer is infeasible, the enclosure shall be sloped to drain
into a dead-end sump.

22 **Kitsap Public Health District**

- 23 31. This permit shall comply with all Kitsap Public Health District regulations
24 and conditions of approval.
- 25

1 Shoreline Conditions of Approval

- 2 32. The proposal is located within High Intensity designation for urban
3 commercial and industrial development, intended and will be conditioned
4 pursuant to KCC Title 22 Shoreline Master Program.
- 5 33. The proposal shall be consistent with KCC Title 22.150.525 for Residential -
6 multifamily development within the High Intensity urban shoreline
7 designation and shall be made a condition of approval.
- 8 34. The previous building height variance approval to allow building height up to
9 45' expired. increase in residential density from 29 du/acre (39 du total) to 36
10 du/acre (47 du total). Due to required development density standards under
11 the Kitsap County Comprehensive Plan and Title 17, another variance from
12 the standard shoreline height guidelines has been reviewed with the submitted
13 Major Revision to the PBD, and ACUP, and shall be analyzed with the SSDP
14 and SVAR, per KCC 22.500.100.B and KCC 22.500.100.E respectively.
- 15 35. Due to the presence of an adjacent wetland on the Old Mill Pond Park site,
16 the revised proposal shall be conditioned per KCC Title 19.200. The permit
17 shall also be conditioned for revised shoreline buffers per KCC 22.400.120,
18 19.300.310 and for stormwater controls, pursuant to KCC Title 12 Stormwater
19 Drainage.
- 20 36. Prior to SDAP acceptance Archaeologist review of relevant historic and
21 geotechnical information from the property to prepare a desktop Survey to
22 determine what project activities are likely impact native sediments.
- 23 37. As an addendum to the above archeological survey, a Monitoring &
24 Inadvertent Discovery Plan (MIDP) should be provided outlining the planned
25 monitoring procedures and Inadvertent Discovery Plan for any activities that
do not require monitoring. Recommend that the applicant continue
consultation with the Suquamish Tribe and staff for ongoing cultural resource
issues.

21 Shoreline Mitigation:

- 22 38. The building setbacks will be increased from the shoreline and offsite wetland
23 as identified on the site plan to help reduce potential shoreline impacts as
proposed by the applicant, dated March 01, 2024 (See Exhibit-25).
- 24 39. Follow building shading and massing studies dated March 01, 2024, to reduce
25 impacts on the adjacent Kitsap County Park and saltwater shoreline along
Dyes Inlet (See Exhibit 33 and 37)


1 40. Mitigation shall be implemented per the submitted shoreline restoration plan
2 with native plant landscape plan per the Shoreline No Net Loss Report and
Landscape Plan, dated March 01, 2024 (See Exhibit-38).

3 41. The Clear Creek Trail has been added as a project amenity with reduction plan
4 that includes the trail reduction of net impervious surface area to a maximum
60” width reducing storm drainage impacts and includes ADA sitting area.

5 42. The PBD Major Amendment approval is guided by the Shoreline permit
6 procedure and shall become void if no building permit application for the
7 apartment building is applied and accepted as complete, by the Department of
8 Community Development within two (2) years and completed in five (5) years
from the date of the Hearing Examiner's decision and resolution of any
appeals, consistent with KCC 22.500.105.H.

9 43. The Applicant shall comply with the Mitigation Measures of the November
10 20, 2024 SEPA Mitigated Determination of Nonsignificance.

11 Dated this 2nd day of January 2025.

12 
13 _____
Phil Olbrechts,
14 Kitsap County Hearing Examiner

15 **Appeal Right and Valuation Notices**

16 Pursuant to KCC 21.4.100 and KCC 21.04.110, the critical areas variance decision is a
17 final land use decision of Kitsap County and may be appealed to superior court within
21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C
RCW.

18 The shoreline variance decision is a final land use decision of Kitsap County and after
19 approval or denial by the Washington State Department of Ecology may be appealed to
20 the Washington State Shoreline Hearings Board as governed by RCW 90.58.180.

21 The shoreline substantial development permit decision is a final land use decision of
22 Kitsap County and may be appealed to the Washington State Shoreline Hearings Board
as governed by RCW 90.58.180.

23 Affected property owners may request a change in valuation for property tax purposes
24 notwithstanding any program of revaluation.