

Appendix A

December 19, 2024 Hearing Transcript

North Beach Apartments SVAR, SSDP, PDB Revision - Major

File No. 23-01781, 23-01777, 22-04212

*Note: This is a computer-generated transcript provided for informational purposes only. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. A recording of the hearing is available at the Kitsap County Department of Planning should anyone need an accurate rendition of the hearing testimony.*

Speaker 1 ([20:18](#)):

Oh, I see. Okay. Yeah, yeah, I didn't see there was another folder in there. Okay, there we go. Alright, our second hearing then today is on a request for a shoreline variance, a shoreline substantial development permit and a permit revision. These are for file numbers, lemme get that. 23 dash 0 1 7 81 23 0 1 7 7 7 and 22 dash 0 4 2 2. Hearing format will be the same as the last hearing, which is a staff presentation. Then applicant comments, then public comments, then we move back for applicant, or excuse me, staff rebuttal and then applicant gets final word, I get 10 business days to issue a decision. The shoreline variance would have to be approved by the Department of Ecology. The other permits are final from my end. So with that, let me put up the exhibit list. Got to dig that up here. Here we go. Oh shoot, I keep coming up with that other folder. Hold on a second.

Speaker 4 ([21:42](#)):

I can also share it if you'd like. I have it pulled up as well.

Speaker 1 ([21:44](#)):

Oh, I think almost. There we go. Okay. And these shoreline permits take a lot of work. So we have quite a few exhibits, a total of, let's see, 49. So Ms. Jones, are there any people present here other than applicant on this one?

Speaker 4 ([22:05](#)):

We have one person in the room, but they're not here for this project.

Speaker 1 ([22:12](#)):

Oh, okay.

Speaker 4 ([22:13](#)):

Alright. I do see a few people online, but,

Speaker 1 ([22:16](#)):

Okay, well I guess, yeah, since we have people online, I'll go over the exhibits real quick then as I said, there's a lot of work that goes into these projects and let me share my screen here real quick. Come on. There we go. Alright, so you see we have our environmental review, past hearing examiner, decision

project narrative concurrency test, dealing with, I'm assuming traffic, stormwater review, geotechnical review, shoreline mitigation plan, some more stormwater work, traffic impact analysis, Suquamish tribe comments, department of ecology comments, architectural site plans, civil plans, landscaping plans, massing studies, some revised architectural plans, the environmental review, again, a no net loss report, which evaluates the ecological impacts of the project, some revised project narratives and more ecology comments. And then the notices for the project total of 49 exhibits. At this point, just want to ask if anyone has any objections to entry of these documents or needs to see them. Again, if you're participating virtually, just click on your virtual hand at the bottom of your screen or if you're in the room, just wave your hands and Ms. Jones will recognize you. And let's see, not seeing any takers on this one. So it looks like we're good on, just hold on a sec. Alright. Okay. And let's see who's our staff lead on this one now?

Speaker 4 ([23:52](#)):

Today we have Jeff Smith and he will be making his way up to the podium.

Speaker 1 ([23:55](#)):

Okay. Alright. All right. Mr. Smith, let me swear in, just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 7 ([24:10](#)):

Yes, I do.

Speaker 1 ([24:11](#)):

Oh, great. Go ahead.

Speaker 9 ([24:15](#)):

Good morning. My name is Jeff Smith. I am representing Department of Community Development today. The proposal is for multifamily housing, additional multifamily housing in the Silverdale regional area. I have over 20 years of planning experience reviewing projects like this. And the first thing is the applicant is daybreak development LLC and the request by the applicant is the revision to the building design and the Buckland court performance based development, which was approved by the hearing examiner in approximately 2014 2015. The project includes a shoreline substantial development permit, shoreline variance for building heights to increase the building height, 10 feet above the 35 foot height limitation within the Meyer Master program. And also the project includes administrative conditional use permit, which is not going to be under your review. The request is a four story building, 47 units and they'll include one story structural parking underneath the building and there'll be additional parking on the site far as surface parking as well as parking maybe as far as there's an easement for parking offsite. The property is within the Silverdale design standards, Buckland Hill Design District. It also is in the shoreline Intensive Shoreline designation.

Speaker 2 ([26:40](#)):

Oh,

Speaker 9 ([26:45](#)):

The subject property is located in Central Kitsap. It's on the north side of Dyes inlet. It's on the south side of Buckland Hill Road. Here's a neighborhood regional view showing the property properties west of the Old Mill Park, which is owned by Kitsap County and it's also east of Old Town Silverdale. Here's that enlarged view. The subject property is a hundred thirty three hundred thirty three, excuse me, 1.3 acres and size. It is about 420 feet long, 168 feet wide and it also includes tidal lands that goes out into Dyes inlet. That's approximately 900 feet long, which is traditionally usually owned by our natural resources, but it is still managed by them.

[\(28:07\):](#)

The subject property is zoned regional Center. This project is a permitted use within the regional center that allows for multi-family housing and allows for a 45 foot height limitation and can be increased based on performance-based development. And it's adjacent to the park zone, which again is owned by Kitsap County. The Shoreline Master program is shown in this map far as a designation. When this property, or excuse me, when the SHO Master program was adopted, it included designation of urban intensive development. It bisects the property approximately halfway through the property and includes the ribbon, includes the Silverdale Hotel around Dyes Inlet and to the south. Otherwise to the east is a conservancy, urban conservancy.

[\(29:31\):](#)

The property includes multiple critical areas based on our mapping. First the purple is considered a seismic hazard area, which is prone to liquefaction related to earthquakes. The second thing is that includes the 100 year floodplain. Also the property includes erosion hazards along the beach area or the site is an open grassy area separated by chain link fence and the shoreline consists of anchored logs and native vegetation and there are some invasive species far as the shoreline has a gentle sloping bank of four feet, high rock bulkhead and a six foot wide gravel trail that bisects and parallels the upside of the wall. There's an existing wall there and the shoreline is exposed and receiving direct sunlight over the summer months.

[\(31:07\):](#)

It's been noted that by various sources that there's, this site used to be a location of a cement batch plant and that there's over 10 feet of fill on the subject property and there was testing in 2013 and far as there's not been any contaminants identified so far. The proposal will include excavation 10 to 12 feet down, depending potentially down to native soils when that occurs. As far as the proposal was reviewed for off street parking, signage, landscaping as far as development, engineering for stormwater access, transportation, roads and fire safety and solid waste. I had like to get into as far as describing the different permits that are involved here is that this is being reviewed for performance-based development major revision. The proposals includes an increase in density, includes a substantial change to the building layout on the property, includes a reduction of the perimeter setback and those are items to trigger a major revision to the foreign space Development staff has reviewed that proposal and finds that the documentation the applicant submitted the record is consistent with meeting those requirements for open space and far as up street parking. It does include a parking reduction and it's referencing the transit element which transit is located on Buckland Hill Road and it provides a connection to a regional transit center in Central Kitsap.

[\(33:40\):](#)

As far as the Shoreline substantial development permit, this is to review the compatibility with the shoreline and the ecological resources and how they're being mitigated. Again, the applicant has thoroughly provide special reports that support this shoreline substantial development permit and does comply with the state RCW and WAC for those design criteria. The next one is the shoreline variance and

let me get further here, lemme back up here again. This is a map showing the Buckland Hill Design District and this shows the older design districts in Silverdale. This is a map showing the existing conditions on the property, showing the trail that is already in operation today and will remain in operation. Yeah, that black line there shows approximately the location where there's a retaining wall and shows how this demonstrates how this is the type of vegetation that's existing on the property and clearly demonstrates as far as how this is located between the old Mill Park where there's critical areas, there's a category four wetland with a 50 foot set, excuse me, 50 foot buffer. And also the urban intensive designation requires a 50 foot shoreline buffer of 50 feet as well. This shows that the existing trail bisects the existing buffer area.

[\(36:13\)](#):

So this shows what the proposed improvements are going to be. And as far as the areas of enhancement shows the general footprint of the building and the critical area on the adjacent property as well as the Silverdale Hotel. Here we have the site plan of the proposed development showing the footprint of the structure and shows the area where along the shoreline, where the buffer is and as well as the trail that's being bisects, the 50 foot shoreline buffer. It also identifies the 50 foot buffer from the wetland that a portion of that does is on the subject property. It does show that the structured parking below the building as well as some surface parking that's located north of the building.

[\(37:33\)](#):

This shows a landscape plan shows the enhancement area along the shoreline, whereas the additional planting and the, which would be planted and monitored for up to five years after the project has been approved for final inspection. This also shows some enhancement areas and landscaping along the east side. And again, this shows the off street parking area where there's going to be internal landscaping to the parking area and also around the frontage of the property where it enters. And I want to note that this property doesn't have direct access on Buckland Hill. It is provided access via an easement that the easement provides access or is accessed by a traffic signal on Buckland Hill.

[\(38:53\)](#):

Again, this property is the way it's located in an urban intensive area and it requires a height limitation of 35 feet. However, in the regional center zone it allows, allows for a higher building height and it requires a higher density. So that's where the conflict is between the height limitation for the Char Master program and requires the underlying zone allows for a higher building and higher density. So the applicant has prepared a known net loss report to look at ecological impacts as well as a shading study and a massing study. Then the request is to allow 10 feet to allow the structure of 10 feet to exceed the 35 foot height limitation. As you can see, the grade plane there is at the ground level there and it's measured from that ground level to the top of the building.

[\(40:31\)](#):

So the variance is reviewed against the variance criteria in the Shoreline Master Program. The request is are there bulk dimensional standards that the impact the proposed use? Yes, as far as that, the issue with the regional center zone and the Shoing Master program height limitation as far as there's, is there a hardship related to this? Are there any unique conditions? And the applicant has argued yes, there is a hardship based on the density requirements and the needed height to construct at a higher height and a higher density like this proposal is going from 40 units, how it was originally proposed up to 47 units is the design of the project to be compatible with the authorized uses within the area.

[\(41:46\)](#):

And that is, yes, it is compatible with the uses in the area. It was mentioned is that this is going to be stair step back and it also is consistent with the general design of the Silverdale Hotel. So another

criteria is the variance constitute a grant of special privilege not joined by other properties in the area. Again, the Silverdale Hotel has a similar height and it's been there for approximately 35 years. And as at the minimum necessary, it could be argued, yes, it is the minimum necessary. And the previous hearing examiner did approve this at 45 feet as well. And it's been demonstrated through the shading study that this area receives a southern exposure and won't create any shadowing on the shoreline and impact ecological functions.

[\(43:06\)](#):

So as far as the variance will be impacting cumulative impacts. And that's not the case here. Because the proposal has been reviewed with the no net loss report, the actual project will provide additional enhancement of the shoreline and the shoreline functions and shouldn't cause any substantial adverse impacts on the shoreline. The proposal there was proper public notice given to this request. The applicant or the staff provided public notice around the subject property 800 feet. We went through the optional DNS process to receive public comments and we did receive comments from three state agencies, but we did not receive any comments from the general public.

[\(44:27\)](#):

We received comments from the Department of Ecology Shoreline Planning. We also received comments from the Toxics Waste Division. We received comments from the Department of Archeological historic preservation. In addition, we did receive comments from the Suquamish tribe and to address that, that kind of those comments as far as their concerns. So the Department of Ecology commented on the water dependent uses versus no water oriented uses and the applicant argues that this is definitely a water oriented use with the trail going across the property and providing wider access to the shoreline. Ecology had concerns with impervious surface requirements in the Shoreline Buffer based on what their comments and what was originally proposed. The applicant chose to reduce the size of the trail, which is going to be a gravel trail down to 60 inches running across the property and it's going to be gravel. So the applicant has made changes to the site plan to reduce the amount of impervious surface on the site as well as in the natural vegetation buffer.

[\(46:14\)](#):

There were some comments about the viewing platform. It's documented that the viewing platform is outside the 50 foot buffer. It's in the 200 foot or foot jurisdiction, but is outside the 50 foot buffer. So it shouldn't impact the values and functions of that buffer. The DOE commented that the proposal exceeds 45 feet and as I stated earlier, the applicant has made arguments about the far as the limitations of the code to allow the density at a lower building height. There was comments about the bulkhead and being removed, but I think from what I understand is that the applicant's going to retain that bulkhead and it shouldn't impact the overall functions of the buffer. There is also comments about the rooftop structure and as far as what kind of amenities are offered on the roof, but at this point there are not any amenities on the rooftop. The only thing that will go up above the 45 foot height limitation is the elevator mechanical equipment.

[\(47:53\)](#):

The DOE commented on the geotechnical report and far as the amount of gravel areas is being proposed, but that has already been addressed in the Geotechnical report and the Geotechnical report does address the seismic hazard area and how the structure's going to be constructed to deal with any kind of liquefaction. The state archeological and historic preservation commented on. There's a potential based on mapping and comments made from the tribe. There's some archeological resources on the property. The project is conditioned to include inadvertent discovery plan at the time of the site developmental activity permit at time when there's excavation that occurs. That would be when they

excavate for the parking facility, that if they go below the 10 foot margin, then if there's native soils that are being disturbed, they'd like to have a tribal member present at that time to address those. If there's any resources discovered, there's a potential that this area was a campsite and it is near the mouth of Clear Creek, there is a high probability. There would also be archeological resources at the old Mill Park if that excavation would occur there too. And the Fire Ecology Toxics cleanup program, they commented that there's, because it was a batch plant in the fill, that there's a probability that there'd be some kind of contaminated resources or soils on the property. And so they want to make sure the protocols are followed when that occurs.

(50:16):

So to tie this up, based on the findings in the staff report, the proposal is consistent with criteria as far as being consistent with the comprehensive plan. It's consistent with the development regulations and the proposal incorporates compatible and incorporates specific features and conditions to ensure that it's appropriate to the character of the area staff elect to make a recommendation of approval based on the Shoreline Master program and Title 17 of the zoning code with the 39 conditions of approval.

Speaker 1 (51:10):

Okay, sounds great. So a couple questions. You mentioned that prior variance has been approved for this project for the height, and according to the staff report that's expired, that's why it's been reapplied. It doesn't look like we can put, can I get a copy of that prior hearing examiner decision? It looks like we have a hearing examiner decision in the record for the PBD modification, but not for the variance itself. Is that a Oh, sorry.

Speaker 9 (51:38):

No, it should include the variance too. It was, it was combined.

Speaker 1 (51:44):

Oh, it was in there. Okay. Yeah, I was reading through it. I didn't see. Okay. Okay. As long as it's in there, that's good then. And then what were impacts on views considered at all? I think that could fall under the compatibility criterion for variance approval. It's compatible with other uses. I mean, will this have any impact on the views of surrounding properties?

Speaker 9 (52:07):

It's not a view protection zone. Nobody has commented that there would be any visual or view impacts the building of the structure.

Speaker 1 (52:21):

Okay. And then,

Speaker 9 (52:23):

Oh, sorry, there's a bank and a taco time or Taco Bell to the north of this. I don't think there's been any, they'd have any concerns.

Speaker 1 (52:35):

Okay. Okay, perfect. And then finally, when you were showing a slide on the buffer encroachments with the trail, you mentioned that a black line depicted a retaining wall and I didn't see that in the diagram.

Any black lines that would show the location of a retaining wall. Could you maybe go back and point that out or,

Speaker 2 ([52:54](#)):

Okay.

Speaker 1 ([53:13](#)):

Yeah, I think it was that one.

Speaker 9 ([53:15](#)):

I believe that is the retaining wall.

Speaker 1 ([53:19](#)):

Well what you're saying is I don't see a black line on there that would,

Speaker 9 ([53:23](#)):

Oh, there's a black dash line. I think that's it from what I can tell from here.

Speaker 1 ([53:28](#)):

Oh, okay. Hold on a second. Yeah, that's when, I just want to make sure I recognize the correct.

Speaker 9 ([53:33](#)):

There is a 50 foot buffer and that's represented by the yellow buffer. Oh, it's blue actually.

Speaker 1 ([53:37](#)):

Okay. Alright, there we go. Alright. Yeah, that was just my point of confusion there. Okay, got it. Perfect. Alright, thanks Mr. Smith, appreciate your comments. Let's move on then to the applicant. Ms. Jones, is the applicant there and want to testify?

Speaker 4 ([53:52](#)):

The applicant is not here in person, but we have online

Speaker 1 ([53:56](#)):

Mr. Baxter. Okay. Mr. Baxter, let me swear in there. As soon as you turn on your audio, there we go. Okay. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding? I

Speaker 10 ([54:09](#)):

Do.

Speaker 1 ([54:09](#)):

Okay. And your video is off. It doesn't have to be on, just so you know. Go ahead.

Speaker 10 ([54:14](#)):

I don't know why it's off, but that's okay.

Speaker 1 ([54:17](#)):

Yeah, that's fine.

Speaker 10 ([54:19](#)):

Yeah, I just wanted to elaborate on a few things I'm actually not sure of. There's no retaining wall on the property. I think in prior comments back and forth, there was confusion about what was the existing bulkhead and what is the current bulkhead. And previously there was a rockery style bulkhead along the shoreline. There was a permit issued to change that to anchored logs and that is the current condition. And then the DOE on when they made comments on their original plan review, we had added some stone boulder retaining elements and that's what they were commenting on, I think as far as a retaining

Speaker 2 ([55:09](#)):

Wall.

Speaker 10 ([55:10](#)):

But we have removed those from the plans, so we're not adding any retaining or rockeries. So hopefully that clears the retaining wall thing up. So there shouldn't be any retaining proposed or existing.

Speaker 1 ([55:27](#)):

Okay.

Speaker 10 ([55:31](#)):

That's the bulkhead, the shading. We also included in our shading study that it has a minimal impact on the adjacent park as well. And the top story of the building has stepped back to help minimize the shading towards the park in the evening hours. And then as far as hardships go, it's included in the staff report, but we've elaborated further on, there's sort of multiple hardships in One of the primary ones is because this site has no direct, it's not fronting a right of way on any side. The site requires a significant of space to accommodate the fire apparatus access, including aerial access. And so a good portion of the site must be used to allow fire access around all sides of the property because we don't have a right of way that would normally contribute to helping with that fire access. And so that's one of the hardships as well to make the building more compact and slightly taller because of how much space is necessary for fire access. Those were just what I wrote down as notes as far as what to elaborate on. And yeah, if you have any further questions, let me know.

Speaker 1 ([57:18](#)):

Okay, thanks Mr. Baxter, and especially appreciate your clarification on the variance requests. That's always the toughest part of any permit review and anything you can throw in there to support your side, it's certainly a big help for me in assessing the project as well. So with that, let's move on to any public comments at this point. Ms. Jones, is there anyone in the hearing room that wants to speak on this?

Speaker 4 ([57:43](#)):

Not in the hearing room, no.



Speaker 1 ([57:43](#)):

Okay. How about then any of the people attending virtually? If you want, just click on your virtual hand, not seeing any takers there. So back to Mr. Smith, any final comments you need to make

Speaker 2 ([57:58](#)):

At this time?

Speaker 1 ([57:59](#)):

Okay. And Mr. Baxter, you get final word. Like I said, it doesn't look like it's necessary. So unless you raise your hand, I'll assume you have nothing further to say and go ahead and close the hearing. It looks like this has been pretty well thoroughly assessed. I have a little bit of reading to do to just verify all that, but staff usually does a pretty good job of covering all the criteria and it's likely to be approved, but I still do need to read those background materials to verify so it looks pretty good and we'll get that decision out within the next 10 business days. Like I mentioned before, the variance is still subject to approval by the Department of Ecology. I'm sure the applicant knows all about that, but the rest of it is going to be final from the county end. And like I said, that decision will come out soon. So thanks all. And I think at this point, right, Ms. Jones, we are done with the agenda for today. We are done. Okay, perfect. Alright, well again, happy holidays everybody, and we're done for this morning.