



## Hearing Examiner Staff Report and Recommendation

**Report Date:** 3/20/2025

**Hearing Date:** 3/27/2025

**Application Submittal Date:**

SVAR - September 09, 2023

CWVB - March 13, 2024

**Application Complete Date:**

SVAR - October 20, 2023

CWVB - May 1, 2024

**Project Name:** Beckley Single Family Residence (SFR)

**Type of Application:** Shoreline Variance (SVAR) Type III  
Conditional Waiver View Blockage (CWVB) Type II

**Permit Number:** 23-04343 & 24-01108

### Project Location

9828 Ogle Rd. N.E.  
Bremerton, WA 98311  
Commissioner District 1

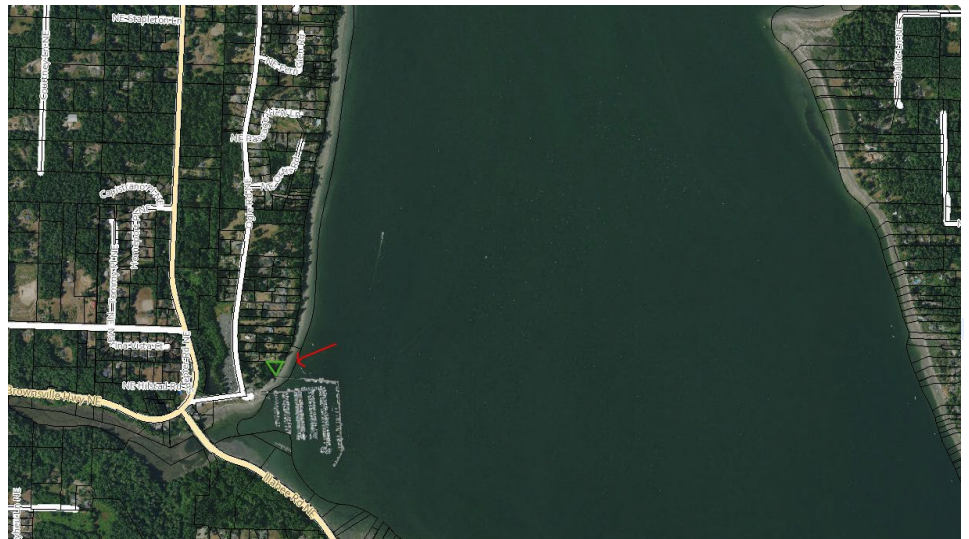
### Assessor's Account #

132501-4-014-2007

### Applicant/Owner of Record

EDWARD & HELEN BECKLEY  
4664 PANTHER LAKE RD. W.  
BREMERTON, WA 98312

### VICINITY MAP



### Recommendation Summary

Approved subject to conditions listed under section 13 of this report.

### 1. Background

The applicant proposes a new 1,200 square foot single family residence (SFR) and 1,210 square foot driveway, for a total of 2,410 square feet of impervious surface on a 0.30-acre parcel in the Rural Conservancy shoreline environmental designation. North Perry Avenue Water District will provide potable water and Kitsap County Sewer will provide sanitary sewage disposal. Ogle Rd NE provides vehicular access directly to the project site. The proposed stormwater facilities include a tightline to the base of the bluff for discharge at the ordinary high-water mark (OHWM).

The residence will be located 15-feet from the edge of the bluff and approximately 50-feet from the OHWM. The applicant prepared a mitigation plan to maintain shoreline functions since the project is located in the shoreline buffer. This staff report also serves as the concurrent administrative Shoreline Exemption approval for construction of a single-family residence per KCC 22.500.100(C)(3)(g).

**2. Project Request**

Applicant requests approval for a Shoreline Variance to allow construction of a new 2-story single-family residence with associated existing driveway, parking and utilities.

The applicant concurrently requests approval of a Conditional Waiver View Blockage Requirement, Type II, which is administrative and generally under Director’s approval. However, the SVAR requires hearing examiner approval. Kitsap County Code 21.04.180 allows for the consolidation of project permit applications to avoid duplication of review.

**3. SEPA (State Environmental Policy Act)**

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated May 8, 2024. A Determination of Nonsignificance (DNS) was issued on February 18, 2025.

The SEPA appeal period expired May 4, 2025. No appeals were filed; therefore, the SEPA determination is final.

**4. Physical Characteristics**

The 0.30-acre triangular shaped parcel, mostly cleared of trees with no existing buildings. The western half of the property is mostly flat with an approximately 40-foot south-eastern facing slope on the eastern edge of the property, that extends down to the shoreline.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Residential (RR) Zone: RR	Standard	Proposed
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Minimum Density	NA	NA
Maximum Density	1 du/5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140	NA
Minimum Lot Depth	140	NA
Maximum Height	35 feet	2 stories, <35 feet
Maximum Impervious Surface Coverage	NA	~2,410 square feet
Maximum Lot Coverage	NA	NA

Applicable footnotes: NA

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (West)	20 feet (Reduced per 17.420.060 A.42)	33-feet
Side 1 (North)	5-feet (Reduced per 17.420.060 A. 42)	5-feet
Side 2 (East)	5-feet (Reduced per 17.420.060 A. 42)	5-feet
Rear (NA)	NA-three (3) perimeter boundaries	NA

17.420.060 A.42. b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for purpose of establishing setbacks from the property lines.

Staff Comment: For zoning purposes, the triangle shape lot has 3 boundaries resulting in one at the west front access and two side setbacks at the north and eastern perimeters.

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-family residence (SFR)	Rural Residential (RR)
South	Port of Brownsville Marina	Rural Commercial (RCO)
East	Rural Conservancy Shoreline	RCO and SMP
West	Port of Brownsville Marina	RCO

**Table 4 - Public Utilities and Services**

	Provider
Water	North Perry Avenue Water District
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District #401

## 5. Access

Access is via an existing 16-foot, private driveway easement under Auditor File No. (AFN) 84020201500, from the east side of a county maintained local right of way (ROW), known as Ogle Rd. N.E.

## 6. Site Design

The proposal is for a single-family residence that meets the reduced setbacks allowed in zoning code footnote, discussed in Table 2 of this report, as well as parking requirements. The home will be located as far landward as the site constraints, including shape and size will allow. The home is designed to minimize and mitigate impacts to the shoreline buffers while still allowing for the use.

## 7. Policies and Regulations Applicable to the Subject Proposal

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

Kitsap County Comprehensive Plan, adopted June 30, 2016, and as amended thereafter. The following Comprehensive Plan goals and policies are most relevant to this application:

Chapter 3- Environment, incorporates by reference the goals and policies of the Kitsap County Shoreline Master Program.

Policy SH-1. Protect and conserve shoreline areas that are ecologically intact and minimally developed or degraded. Develop incentives and regulations for privately owned shorelines that will protect and conserve these areas while allowing reasonable and appropriate development.

Policy SH-2. Recognize that nearly all shorelines, even substantially developed or degraded areas, retain important ecological functions.

Policy SH-4. Permitted uses and developments should be designed and conducted in a manner that protects the current ecological condition and prevents or mitigates adverse impacts. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. Rectify the impact by repairing, rehabilitating or restoring the affected environment;
4. Reduce or eliminate the impact over time by preservation and maintenance operations;

5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and
6. Monitor the impact and the mitigation projects and take appropriate corrective measures.

Policy SH-7. In assessing the potential for new uses and developments to impact ecological functions and processes, the following should be considered:

1. On-site and off-site impacts;
2. Immediate and long-term impacts;
3. Cumulative impacts, from both current and reasonably foreseeable future actions, resulting from the project; and
4. Any mitigation measures or beneficial effects of established regulatory programs to offset impacts.

Policy SH-9. Preserve native plant communities on marine, river, lake and shorelines to maintain shoreline ecological functions and processes, development along the shoreline should result in minimal direct, indirect, or cumulative impacts. This includes:

1. Keeping overhanging vegetation intact along the shoreline edge to provide shading and other ecological functions;
2. Preserving established areas of native plants and minimizing clearing and grading near bluff edges and other erosion or landslide-prone areas to maintain slope stability and prevent excess surface erosion and stormwater runoff;
3. Designing and placing structures and associated development in areas that avoid disturbance of established native plants, especially trees and shrubs; and
4. Removal of noxious weeds in accordance with WAC 16-750-020.

Policy SH-10. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat. When shoreline uses or modifications require a planting plan, maintaining native plant communities, replacing noxious weeds and avoiding installation of ornamental plants are preferred. Nonnative vegetation requiring use of fertilizers, herbicides/pesticides, or summer watering is discouraged.

Policy SH-13. Ensure mutual consistency with other regulations that address water quality and stormwater quantity, including standards as provided for in Title 12 (Storm Water Drainage) and Chapter 173-201A WAC (Water Quality Standards).

Policy SH-16. Accommodate and promote, in priority order, water-dependent, water related and water-enjoyment economic development. Such development should occur in those areas already partially developed with similar uses consistent with this program, areas already zoned for such uses consistent with the Kitsap County Comprehensive Plan, or areas appropriate for water-oriented recreation.

Policy SH-21. Give preference to water-dependent uses and single-family residential uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related, and water-enjoyment uses. Nonwater-oriented uses should be limited to those locations where the above-described

uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Act. For use preference within shorelines of statewide significance, see Section 22.300.145(B).

Policy SH-23. Through appropriate site planning and use of the most current, accurate and complete scientific and technical information available, shoreline uses and development should be located and designed to avoid the need for shoreline stabilization or actions that would result in a net loss of shoreline ecological functions.

#### 22.500.125 Rural Conservancy Shoreline Designation

- A. Purpose. To protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities.
- B. Designation Criteria. Shorelines outside the UGA or LAMIRD that have any of the following characteristics:
1. Currently support lesser-intensity resource-based uses, such as agriculture, aquaculture, forestry, or recreational uses, or are designated agriculture or forest lands;
  2. Currently accommodate residential uses but are subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or floodplains or other flood-prone areas;
  3. Have high recreational value or have unique historic or cultural resources; or
  4. Have low-intensity water-dependent uses.
- C. Management Policies.
1. Uses should be limited to those which sustain the shoreline area's physical and biological resources, and those of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Developments or uses that would substantially degrade or permanently deplete the physical and biological resources of the area should not be allowed.
  2. New development should be designed and located to preclude the need for shoreline stabilization. New shoreline stabilization or flood control measures should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied.
  3. Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the "rural conservancy" environment.
  4. Low-intensity, water-oriented commercial uses may be permitted in the limited instances where those uses have been located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.
  5. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails and

swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline area are mitigated.

6. Agriculture, commercial forestry and aquaculture, when consistent with the program, may be allowed.

***Staff Comment:** The proposed single-family residential development is located outside the flood zone, landward of shoreline slopes. The proposal is a historic lot of record in the Rural Residential zone. The associated No-Net-Loss (NNL) and Mitigation Report indicates there will be NNL of habitat, and mitigation will offset impacts associated with the shoreline buffer impacts for development of the property. The geotechnical report recommends tightlining stormwater to the base of the bluff to prevent destabilization, designed to eliminate scour and prevent erosion by directing the flow to a catch basin at the base of slope for the discharge point at ordinary high-water mark (OHWM), to maintain habitat. The proposed development is the minimum necessary to afford construction of a single-family residence, while still protecting ecological functions with proposed mitigation.*

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

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 19	Critical Areas Ordinance
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures
Chapter 22	Shoreline Master Program

## 8. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of the following Exhibits.

Exhibit #	Document	Dated	Date Received
1	<b>STAFF REPORT</b>	3/20/2025	
2	Authorization Form 23-04343	8/7/2020	10/12/2023
3	No Net Loss (NNL) & Shore Analysis 23-04343	8/16/2023	10/12/2023
4	Pictures 23-04343		10/12/2023
5	Post Construction Soil Management Plan 23-04343		10/12/2023
6	Project Narrative – Shoreline Variance 23-04343	8/17/2023	10/12/2023
7	Site Assessment Planning Packet 23-04343	8/2/2023	10/12/2023

8	Submission Application 23-04343	9/11/2023	10/12/2023
9	22.500.100 Permit Provisions 23-04343		2/29/2024
10	Civil Plans 23-04343	12/19/2023	2/29/2024
11	Cumulative Impacts Analysis 23-04343		2/29/2024
12	Drainage Report 23-04343	12/19/2023	2/29/2024
13	Geotechnical Engineering Report 23-04343	2/5/2020	2/29/2024
14	Geotechnical Report Addendum Letter 23-04343	5/23/2022	2/29/2024
15	Resubmittal Letter 23-04343	2/22/2024	2/29/2024
16	Stormwater Worksheet 23-04343		2/29/2024
17	Property Owner Statement of Neighbor Notification 24-01108	2/22/2024	3/18/2024
18	Project Narrative – Conditional Waiver From View Blockage 24-01108	1/19/2024	3/18/2024
19	Site Plan 24-01108	12/19/2023	3/18/2024
20	Stormwater Conditions Memo 23-04343	4/18/2024	
21	Public Comment - DAHP, Stephanie Jolivette, CRS 23-04343	4/24/2024	
22	Public Comment - Suquamish Tribe, Taylor Harriman, CRS 23-04343	4/29/2024	
23	Notice of Application 23-04343 & 24-01108	5/8/2024	
24	Public Comment – Nelson 24-01108	5/15/2024	
25	Public Comment – Suquamish Tribe, Rod Malcolm 23-04343	5/20/2024	
26	Applicant Response to Suquamish Tribe Public Comment 23-04343	6/26/2024	
27	Biologist Response to Suquamish Tribe 23-04343	3/18/2024	10/9/2024
28	Drainage Report 23-04343	10/7/2024	10/9/2024
29	JARPA	5/10/2023	10/9/2024



	<i>23-04343</i>		
30	No Net Loss Report <i>23-04343</i>	10/7/2024	10/9/2024
31	Resubmittal Letter <i>23-04343</i>	10/7/2024	10/9/2024
32	SEPA Checklist <i>23-04343</i>	9/28/2024	10/9/2024
33	Suquamish Tribe Comments <i>23-04343</i>	6/28/2024	10/9/2024
34	Updated Construction Plans <i>23-04343</i>	10/7/2024	10/9/2024
35	Information Request Response Letter <i>24-01108</i>	2/5/2025	2/12/2025
36	View Line Plan <i>24-01108</i>		2/12/2025
37	Google Earth and Coastal Ecology Photos <i>23-04343</i>	8/1/2024	2/13/2025
38	Planting Plan Diagram <i>23-04343</i>	10/7/2024	2/14/2025
39	View Study Narrative <i>23-04343</i>		2/14/2025
40	Water Availability Letter <i>23-04343</i>	7/25/2023	2/14/2025
41	SEPA Determination <i>23-04343 &amp; 24-01108</i>	2/18/2025	
42	Notice of Public Hearing <i>23-04343 &amp; 24-01108</i>	3/12/2025	
43	Certification of Public Notice <i>23-04343</i>	3/17/2025	
44	Staff Presentation		
45	Hearing Sign In		

### 9. Public Outreach and Comments

The Notice of Application was published on April 10, 2024, with a Revised Notice of Application published May 8, 2025. The following comments were received and made part of the exhibit record.

Comments were received by the Department of Archaeologic and Historic Preservation (DAHP), and the Suquamish tribe, related to cultural resource concerns. A cultural resources report will be required with the Site Development Activity Permit (SDAP), as a condition of approval included at the end of this report.

A comment letter from the Suquamish Tribe was received May 24, 2024, concerning habitat, water quality, a site visit during winter not suitable to determine extent of eelgrass beds, including a further study recommendation, phasing of invasives removal, and to provide a clear monitoring timeline. The letter was forwarded to the applicant by county staff. The applicant responded directly to the Tribe by email dated, June 28, 2024.

A comment letter was received by a neighboring resident regarding view impacts. Staff

responded to the homeowner that views outside of the shoreline jurisdiction were not under county regulatory authority, and that they would be added as an interested party.

**10. Analysis**

**a. Planning/Zoning**

A single-family residence is proposed within the RR zone, and the application conforms to the zoning setback.

**b. Lighting**

Not applicable to this proposal.

**c. Off-Street Parking**

See parking table below; per KCC 17.490.030, this proposal requires 3 off-street parking spaces. This proposal will meet this requirement with 3 off-street parking spaces.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	Historical (existing) lots with no standing.	3	3
Total		3	3

**d. Signage**

Not applicable to this proposal.

**e. Landscaping**

Not applicable to this SFR proposals.

**Table 6 - Landscaping**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

**f. Frontage Improvements**

Not applicable to this proposal.

**g. Design Districts/Requirements**

Not applicable to this proposal

#### **h. Development Engineering/Stormwater**

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review in the 1<sup>st</sup> Cycle submittals tab accepted for review on 10/12/23, and as revised by additional materials accepted for review in the 2<sup>nd</sup> cycle submittals tab accepted for review on 2/26/24 to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires the conditions found at the end of this staff report, as an element of the land use approval.

#### **i. Environmental**

The entire parcel and proposal are located in the Shoreline Master Program (SMP) jurisdiction and Shoreline Environment Designation of Rural Conservancy. This Designation requires a 130-foot buffer and 15-foot building setback from the buffer edge, and from top of slope. KCC 22.400.120(B) allow for an administrative reduction of the buffer to 100-feet, however, this three-sided property is shallow, narrow and not a standard configuration, therefore, a reduction to the standard 130-foot Rural Conservancy Buffer and the reduced standard buffer of 100-feet to approximately 27-feet at its closest point requires a variance.

Per KCC 22.400.120(C), constrained lots are “legally platted lots with a depth that would not allow for compliance with the reduced standard buffer” and additional buffer reductions beyond the reduced standard buffer are allowed. Because this project reduces the reduced standard buffer beyond 25 percent, a Type III variance is required, and mitigation is required to ensure no net loss of shoreline and wetland ecological functions. This staff report also serves as the concurrent administrative Shoreline Exemption approval for construction of a single-family residence per KCC 22.500.100(C)(3)(g).

#### **22.400.105 Proposed Development**

The shoreline environment has been a bluff-backed beach. The proposed development will be entirely above Ordinary High Water and is designed per the recommendations of the geotechnical engineer to not require additional shoreline or bluff stabilization. Due to the physical lot constraints, the project has been placed in the most appropriate location furthest landward possible, and the size minimized to fit the building site and within the median size of neighboring homes.

As mentioned in the Cumulative Impacts Analysis, authored by Land Services NW, the reach is 90% armored but this property will not contribute to the reflection of wave action. If erosion is discovered, the applicant will provide erosion control for any rilling, and the drainage system will be maintained for the life of the project. Enhancement activities required by the no net loss report will increase bluff function by limiting invasive species promoting native species and improving nutrient uptake.

Stormwater will be managed to prevent water quality impacts. The site is now lawn with no stormwater controls. The parking will be located further landward of the proposed SFR, from the OHWM.

The effects of residential development of the area have resulted in an increase in shoreline

armoring and discharge of nutrients via onsite septic. This proposal will be one of the few lots in the shoreline reach that is connected to public sanitary sewer.

The area is on a bluff. Gravel that feeds the nearshore is an important resource that emanates from the bluff for the forage fish and macro invertebrates that inhabit the nearshore. This will be maintained. The design of the downspout should maintain the stability of the bank. The enhancement of the vegetation in the area should lead to increased food resources in the nearshore, screening of residential activities and a reduction of invasive species which has been increasing in other areas. The historical use of this property will be improved over the baseline.

The area where resources will be affected is relatively small. There is no direct access to the nearshore from the subject property, except through the Brownsville Marina, however there is visual shoreline access and its fragile resources, which will be maintained. The marina is a high intensity development that borders the reach to the south, and will continue to provide boat wake and other disturbance, however, it does provide a wave break in some instance, which seems to protect the area from wave action.

Further review for site development is pending the outcome of the Hearing Examiner decision. The building construction will be guided by building permit applications, pending submittal.

#### 22.400.110 Mitigation and 22.400.110 A. Mitigation Sequencing

The proposal has met the mitigation sequencing requirements of KCC 22.400.110(A). An analysis of impacts and mitigation is addressed in the Shoreline Analysis and No Net Loss Report by Land Services Northwest, dated October 7, 2024.

Permitted uses and developments shall be designed and conducted in a manner that protects the current ecological condition and prevents or mitigates adverse impacts. Mitigation measures shall be applied in the following sequence of steps, listed in order of priority:

- a. Avoid the impact altogether by not taking a certain action or parts of an action; Because of the size of the lot, a substantial reduction of the buffer will be required.

*Applicant Response: We are maintaining as much of the buffer as possible while maintaining the utility of the single-family residence. We have reduced the buffer only where necessary to accomplish the objective of providing a single-family residence and necessary appurtenances (Driveway).*

- b. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

*Applicant Response: The homesite has been reduced as much as possible to limit impacts. The remaining buffer will be enhanced to improve functions and aesthetics.*

- c. Rectify the impact by repairing, rehabilitating or restoring the affected environment;

*Applicant Response: We will be installing native plants to replace invasive plant. This will maintain the functions and values of the property. A planting plan was developed.*

- d. Reduce or eliminate the impact over time by preservation and maintenance operations;

*Applicant Response: The plantings will be monitored according to code to maintain the required performance. The vegetation enhancement area will require monitoring and should maintain an 80% survival rate and invasive species will be removed over time to maintain*

*less than 20% over time.*

e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and

*Applicant Response: The enhancement plan will maintain the functions by replacing the functions lost by the development. Most of the site has been previously developed, so the baseline conditions are not high.*

f. Monitor the impact and the mitigation projects and take appropriate corrective measures.

*Applicant Response: There will be monitoring.*

#### 22.400.115 Critical Areas

The subject property is located in an area mapped by Kitsap County critical areas as a moderate and high geologic hazard for landslides and erosion. Development in High Geologic Hazard areas requires a building setback equal to the height of the slope plus the greater of one-third of the vertical slope height or twenty-five feet from the top or toe of slope areas, however, based on the findings of the report by EnviroSound Consulting Inc., dated February 5, 2020, as well as an addendum letter from Sound Geotechnical, dated May 23, 2022, the setback for the proposed structure can be reduced to a minimum of 15-feet.

The geotechnical engineer letter stated conditions at the site appear to be unchanged from those described in the ESC report. The entire property slopes gently to the southeast and is grass covered. No indication of instability, seepage, or hydrophyllic (water loving) vegetation along the adjacent slope was observed at the time of site visit, and is the professional's opinion that the information, conclusions, and recommendations presented in ESC's geotechnical report are still applicable.

#### 22.400.120 Vegetation Conservation Buffers

The associated vegetation conservation buffer standards for this proposal are analyzed under the Rural Conservancy buffer criteria in 22.400.120 (B)(1)(d) requiring a 130-foot buffer. As the proposed development requires review under the variance criteria of 22.500.100 (E), review of this code falls under that analysis. The applicant will be enhancing an equivalent to the area that will be cleared for the home and driveway or a ratio of 1:1. The enhancement will occur between the residence and the OHWM.

#### 22.400.125 Water Quality and Quantity

Per the recommendations of the Geotechnical Report, all stormwater is to be directed to the shoreline into an energy-dissipation stormwater system. The project as proposed has been reviewed under Kitsap County Code Title 12 and conditions for further review and approval under a Site Development Activity permit have been reviewed and preliminarily approved.

#### 22.400.130 Historic, Archaeological, Cultural, Scientific and Educational Resources

The Washington State Historic Preservation Officer (SHPO) and Department of Archaeology and Historic Preservation (DAHP) provided a comment letter, dated April 24, 2024, related to potential cultural resources on the property and recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. They also

recommend continued consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

Kitsap County will require application of a cultural resource survey at time of Site Development Activity permit, as a condition of approval. The Department of Community Development (DCD) will condition this approval and subsequent building permit(s) for notification of the Washington State Office of Archaeology and Historic Preservation, and the affected tribes if archaeological resources are uncovered during excavation.

#### 22.400.135 View Blockage

The proposal has been reviewed to meet the view blockage standards, discussed below.

#### 22.400.135 D. Conditional Waiver View Blockage

An applicant aggrieved by the strict application of this section may seek a conditional waiver from the director. Such a waiver shall be a Type II administrative decision and require an application to the department. A conditional waiver may be granted after the applicant demonstrates the following:

- a. The hardship which results from the application of the requirements of this section is specific to the property of the applicant and does not apply generally to other property in the vicinity;

*Applicant Response: The shoreline structure setback, as defined in Kitsap County Code section 22.400.135, would be equal to the setback of the property to the north, which is approximately 140 feet. Strict implementation of this setback would be infeasible for any reasonable development of this property because of the irregular, triangular shape of the property. Implementing a 140-foot setback from the shoreline, a 20-foot setback from the "front" property line (southwest parcel line), and a 5-foot side setback from the north property line restricts the buildable area to a small triangular area that is not practical for any practical residential development. The proposed development is consistent with current zoning, the surrounding property uses and does not propose to impede the shoreline view of neighboring primary residence structures.*

*Applicant Response: As mentioned, the orientation and size of the subject parcel is unusual in comparison to surrounding properties, which are generally rectangular in shape and oriented west to east in length, perpendicular to a regular, straight stretch of shoreline. The structures to the north of the subject parcel are oriented facing the Puget Sound, and do not block the views from adjacent primary structures. The hardship created by the shoreline structure setback is unique to the subject parcel.*

- b. The hardship which results from the application of the requirements of this section is not a result of the applicant's own actions;

*Applicant Response: The subject parcel was purchased in the current condition by the owner. No action has been taken by the owner to create the hardship caused by the*

*shoreline structure setback. The buildable area on the parcel is limited, as the parcel is 0.3 acres and includes a steep slope to the shore, which requires a steep slope building setback.*

- c. The conditional waiver, if granted, will be in harmony with the general purpose and intent of the Act and this program in preserving the views of the adjacent shoreline residences; and

*Applicant Response:* *The proposed structure is generally consistent in shape and size with surrounding residential structures, although the proposed structure is smaller than those within the project vicinity. The structure will be oriented to view the shoreline, just as the neighboring structures do. Based on review of the neighboring properties, substantial view impacts are not anticipated as a result of this development. The proposed footprint is not oversized, i.e. the footprint does not utilize the maximum allowable developable area and much of the property will be landscaped. The proposal is similar and consistent with adjacent and nearby properties and is in harmony with the zoning. The subject property is within the shoreline jurisdiction as defined by the Kitsap County Shoreline Master Program and found in the Shoreline Analysis and No Net Loss Report from Land Services Northwest, dated October 7, 2024.*

- d. The conditional waiver, if granted, will not cause more harm to adjacent neighbors than would occur to the applicant in applying the county's view blockage requirements in this section.

*Applicant Response:* *As previously stated, the proposed structure will not extend to the shoreline by an unreasonable length and the neighboring properties' views will not be substantially impacted. Harm to adjacent neighbors is not anticipated with this development.*

*Staff Comment:* *The proposed residence is topographically lower than the north-adjacent shoreline residence. There is a gradual slope approximately 10 feet on average, between the neighbor at the north and the subject site. The same adjacent structure is oriented to face eastward, so actual view blockage from the proposed SFR, is from two (2) to eleven (11) degrees depending on where one is standing on the adjacent lot to the north.*

*A view study was submitted to demonstrate angles of view from the right corner of the adjacent home at the north, looking straight down the building line, one would realize a view loss of 7 degrees of 180 degrees due to the proposal or 8 feet of the new home in comparison to 11 degrees view loss, two lots over. Standing at the left corner, a greater view loss of about 16 degrees, compared to their neighbor at approximately 17 degrees of 180 degrees. In both cases this appears to be an acceptable loss of view and actually does not represent an area where one would tend to be situated to view the shoreline in real life. From the deck of the neighbors, they would have virtually no loss of view as home is not forward of the deck and the trees in the park would be blocking*

*views more than the new home and shown on the view line plan as an attachment to this report and included in the exhibit record.*

*The applicant submitted a statement that the neighbor to the north, Eva Williams, has no concerns regarding the proposed placement of the new SFR. Staff reached out to Ms. Williams and confirmed this to be the case.*

*In balancing the interest of the applicant with adjacent neighbors, staff finds no evidence that more harm will be done by granting the conditional waiver than would be done by denying it. There are no view blockage concerns for this project.*

#### 22.400.140 Bulk and Dimension Standards

The proposed residence meets the criteria under this code.

#### 22.500.100 Permit application review and permit types.

##### E. Variances and Administrative Variances.

4. Variance permits for development that will be located landward of the OHWM, except within those areas designated as marshes, bogs, or swamps pursuant to Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict application of the bulk, dimensional or performance standards set forth in Chapters 22.400 and 22.600 precludes, or significantly interferes with, reasonable use of the property;

*Applicant Response: The applicant would not be able to complete the objective of providing market rate single family housing without the reduction of the shoreline setback of 130 ft and the reduced setback of 100 feet as the triangular shape of the lot and side lot setbacks force the development toward the shoreline as the area where ingress and egress occurs is narrow and the home must be a certain width to accommodate any type of home and the steep slope setback pushes the development landward so the development is necessarily limited to where we have placed the residence approximately fifty feet from the OHWM and 15 feet from the top of slope as allowed by the recommendations of the Geotech.*

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

*Applicant Response: As we have just mentioned, the hardship is not from deed restrictions or the actions of the applicant, but the size and shape of the lot and the natural features (Bluff).*

- c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and



this program, will not cause net loss to shoreline ecological functions and does not conflict with existing water-dependent uses;

*Applicant Response: We have created a project that is consistent with the comprehensive plan that contemplated single family residences that would not create continual depletion of the sustainable resources. It will not interfere navigation or with other uses such as views and will not cause loss to any loss of ecological functions after the installation of the mitigation plan.*

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

*Applicant Response: We have looked at the other shoreline areas in the reach and this lot has special considerations that others do not have. No one would look at this lot and think that there was a conveyance of special privilege to the applicant. The others in the area do not require a reduction as there is enough room except on a few occasions where they can enjoy reasonable development.*

e. That the variance requested is the minimum necessary to afford relief; and

*Applicant Comment: The variance requested allows for just enough room to maneuver a vehicle to turn around and the footprint of the home is enough to live in and does not create any impacts to the side lot, front lot or rear lot setbacks. It is the least amount needed to afford relief and allow relief from the encumbrances.*

f. That the public interest will suffer no substantial detrimental effect.

*Applicant Response: As mentioned before, the location of development is landward of the OHWM and will not affect the marine waters and it is above the Puget Sound so it will not affect views.*

6. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment. The applicant shall demonstrate such consideration through submittal of a cumulative impacts report, where required (Section 22.700.130).

*Applicant Response: An analysis of the impacts of the development have shown that there should be an improvement over baseline and if variances were granted to other developments like this the total impact of the variances would maintain consistency with the policies of the shoreline environment and would not cause substantial adverse effects to the shoreline environment. A cumulative impacts report is provided in Section 10i of this report under 22.700.130, and has determined there are no substantial cumulative impacts, and consistent with the provision of the shoreline management act and the local SMP.*

7. Variances may not be granted to authorize uses different from the shoreline use and modifications matrix in Section 22.600.105.

*Applicant Response: We have looked at the other shoreline areas in the reach and this lot has special considerations that others do not have. No one would look at this lot and think that there was a conveyance of special privilege to the applicant. The others in the area do not require a reduction as there is enough room except on a few occasions where they can enjoy reasonable development. The primary use to be permitted is residential use and the use is permitted in the matrix and exempt from the requirements of a substantial development permit.*

8. All applications for shoreline variances approved by the county, including administrative variances, shall be forwarded to Ecology pursuant to WAC 173-27-200, for final approval, approval with conditions, or denial. No approval shall be considered final until it has been acted upon by Ecology.

#### 22.600.170 Residential Development

A. Environment Designations Permit Requirements. Where residential development is proposed in the following designations, the identified permit requirements shall apply:

2. Rural conservancy and urban conservancy:

- a. Primary single-family residences are exempt pursuant to criteria in Section 22.500.100(C).

*Staff Comment: A single-family residence is a permitted use in the RC SED, and under KCC 22.500.100(C)(3)(g), allowed to be concurrently reviewed with the Shoreline Variance.*

B. Development Standards.

1. All new residential development, including subdivision of land, shall be designed, configured and developed in a manner that ensures no net loss of shoreline ecological function.

*Staff Comment: A shoreline mitigation plan has been prepared and 'no net loss' analysis completed to demonstrate the above criteria is met.*

2. All sewage disposal and water systems shall comply with state and local health regulations including but not limited to Kitsap County board of health Ordinance 2008A-01 for on-site sewage requirements.

*Staff Comment: The original mobile home was connected to water/sewer and lines are existing. The proposal site will be conditioned to meet current code standards.*

3. New and remodeled residential development and new subdivisions shall be designed, located and constructed so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.

*Staff Comment: Proposal meets this requirement.*

4. New over-water residences, including floating homes, are prohibited. Where such homes were permitted or legally established prior to January 1, 2011, they shall be

reasonably accommodated to allow improvements associated with life safety matters, property rights and considered a conforming use.

*Staff Comment: Not applicable.*

5. Stormwater quality and quantity measures for residential development must comply with current codes.

*Staff Comment: Proposal is conditioned to meet this requirement.*

6. Flood hazard reduction measures for residential development shall comply with Chapter 19.500, as incorporated here by Section 22.400.115 (Critical areas), and Section 22.400.150 (Flood hazard reduction measures) and shall be designed to prevent net loss of shoreline ecological functions.

*Staff Comment: No development within the flood area.*

7. New multi-unit residential development, including the subdivision of land for five or more parcels, shall provide for joint or community and/or public access, except where demonstrated to be infeasible due to any of the following:

- a. Incompatible uses;
- b. Safety;
- c. Security;
- d. Impact to the shoreline environment;
- e. Constitutional or other legal limitations that may be applicable.

*Staff Comment: Not applicable.*

8. In cases where on-site access is infeasible, alternate methods of providing public access shall be considered, such as off-site improvements.

*Staff Comment: Not applicable. Site has existing access.*

9. Lot area shall be calculated using only those lands landward of the OHWM.

*Staff Comment: Not applicable.*

10. Single-family residential uses are a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

*Staff Comment: This proposal will site the structure primarily adjacent to the existing bulkhead, as far from the shoreline bluff as is practicable. New impacts have been minimized and moved landward, away from the shoreline and designed to meet the safety recommendations of the geotechnical engineer for the shoreline slopes. However, the proposed development will still be located below the reduced standard buffer with the footprint of the residence. As such, the proposed new residence requires this Shoreline Variance, the criteria for which will be analyzed below.*

A Cumulative Impact Analysis, (exhibit file) provides the extent of development in the general neighborhood and addresses some of the comments from the Suquamish Tribe.

### **Review Authority**

The Director has review authority for this Administrative Conditional Waiver from View Blockage Permit application under KCC 21.04 and 22.400.135. The Kitsap County Commissioners have determined that this application requires review and approval of the Director. The Director may approve, approve with conditions, or deny a Type II administrative permit.

### **j. Access, Traffic and Roads**

The proposed concept was found to be supportable in its approach to civil site development. Conditions have been recommended.

### **k. Fire Safety**

No comments at this time. Review by the Kitsap County Fire Marshall will occur at time of building permit submittal.

### **l. Solid Waste**

Not applicable to this proposal.

### **m. Water/Sewer**

Availability letters were provided for both water and sanitary sewer. The site has existing waterlines connecting to North Perry Avenue Water District and is within the service area for Kitsap County Sewer Utility Division. Applicant will be required to submit a narrative demonstrating how existing or proposed sewer utility lines meet requirements of Kitsap County Code 22.600.185(C). Applicant will be required to follow all sewer development standards and requirements per KCC Title 13 with future site work.

### **n. Kitsap Public Health District**

No comments. There was no review by the Kitsap County Public Health District since the property will be required to connect to public sewer services.

## **11. Review Authority**

The Hearing Examiner has review authority for this Variance Permit application under KCC Sections 22.500.100.E. and 21.04.080. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, or deny a Shoreline Variance Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner are at KCC, Chapter 2.10. Once the Hearing Examiner Decision is made, the proposal is forwarded to the Washington Department of Ecology pursuant to WAC 173-27-020, for final approval, approval with conditions, or denial. No approval shall be considered final until it has been acted upon by Ecology (22.500.100(E)).

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies with Shoreline Variance Criteria of KCC 22.500.100(E).
3. The proposal complies or will comply with all other requirements of KCC Title 22 and with all of the other applicable provisions of Kitsap County Code.

**13. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 22.500.100.E., the Department of Community Development recommends that the Shoreline Variance request for Beckley Single Family Residence be **approved**, subject to the following conditions:

**a. Planning/Zoning**

1. The project shall meet the required zoning setbacks of 20-feet from the front (west) and 5-feet from the sides (north and south). The rear setback is the shoreline/wetland buffer and setback.
2. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
3. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
4. The decision set forth herein is based upon representations made and exhibits contained in the project application permits, #23-04343 and #24-01108. 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 and Washington Department of Ecology.

**b. Development Engineering**

5. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
6. A Hydraulic Project Approval (HPA) permit may be required for work below the ordinary high-water mark or associated with the outfall. Prior to SDAP approval, the applicant shall submit an approved HPA from the Washington Department of Fish and Wildlife (WDFW), or documentation from WDFW specifying that a HPA is not required. Information regarding HPA's can be found at

<http://www.wdfw.wa.gov/hab/hpapage.htm> or by calling the Office of Regulatory Assistance at (360) 407-7037.

7. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.

**c. Environmental**

8. Construction techniques shall implement best management practices to ensure protection of the shoreline, its associated buffer, and local water quality. Such best management practices shall include protective silt fencing, protective orange construction fencing along defined work areas, working during periods of limited rainfall or potential for adverse erosion, and seeding of exposed soils as needed to prevent adverse erosion.

9. The project is required to follow the mitigation and monitoring plan as provided in the Shoreline Analyses Plan and No Net Loss Report (Land Services NW, 10/07/24). The habitat biologist shall flag the buffer location prior to start of construction. An as-built report of the mitigation from the biologist is required prior to final inspection of building permit.

10. The owner is responsible for maintenance of the planting area for 5 years, including removal of invasive plant species, reinstalling failed plantings, and irrigation. Monitoring shall occur for 5-years upon completion of the plantings. If a phased planting plan is approved, monitoring should also continue to be phased and extend the monitoring period. A permit will be required for the ongoing monitoring plan with reports and photos submitted to KCDCCD by December 31 of each monitored year.

11. A 27-foot vegetated buffer and additional 15-foot building setback, as well as additional habitat features as depicted in the approved Shoreline Mitigation Plan and No Net Loss Report shall be maintained. No additional clearing, structures, storage, or debris is permitted within the buffer or below Ordinary High Water without additional review and permitting by Kitsap County Department of Community Development, and state permits as necessary.

12. The shoreline view line, as depicted on the approved site plan shall be maintained.

13. Upon final permit issuance, all construction for the project must commence within two years and be complete within five years. A one-time, one-year extension is available but only if requested on or before ninety days of original permit expiration. No exceptions are allowed unless provided for by law.

**d. Traffic and Roads**

14. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process, or Building

Permit process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

**e. Fire Safety**

None at this time.

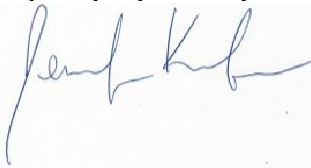
**f. Solid Waste**

None at this time.

**g. Kitsap Public Health District**

None at this time.

**Report prepared by:**



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Jenny Kreifels, Staff Planner

March 3, 2025

Date

**Report approved by:**



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Darren Gurnee, Department Supervisor

3/3/2025

Date

**Attachments:**

Attachment A – Site Plan

Attachment B – Critical Areas Map

Attachment C – Zoning Map

Attachment D - Planting Plan Diagram

Attachment E - Google Earth Photo

Attachment F - Coastal Atlas ECY Photos

Attachment G - County Aerials

Attachment H - View Study

**CC:**

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Engineer: Clint Pierpoint, [Clint.Pierpoint@kpff.com](mailto:Clint.Pierpoint@kpff.com); Blake Lord,

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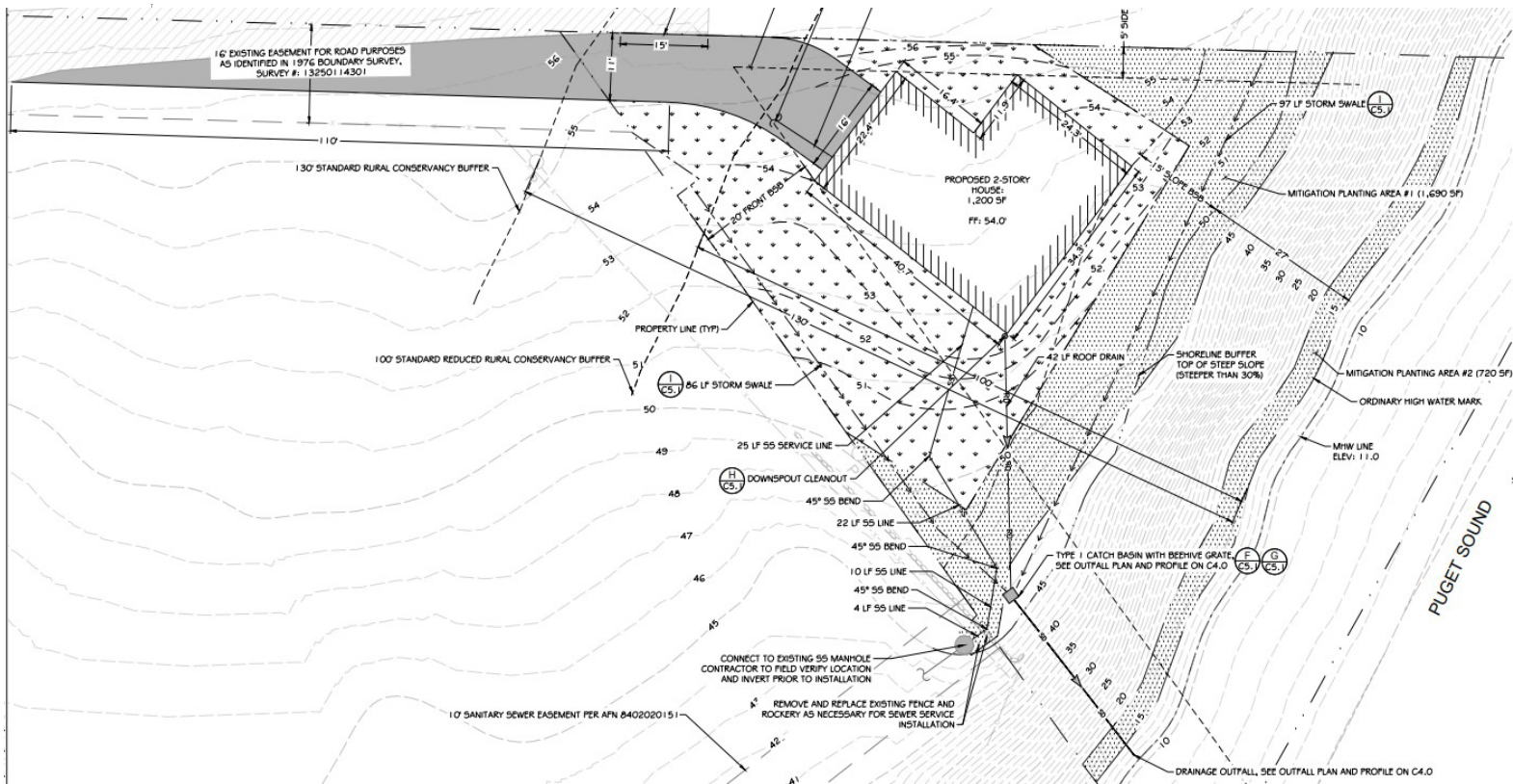
Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

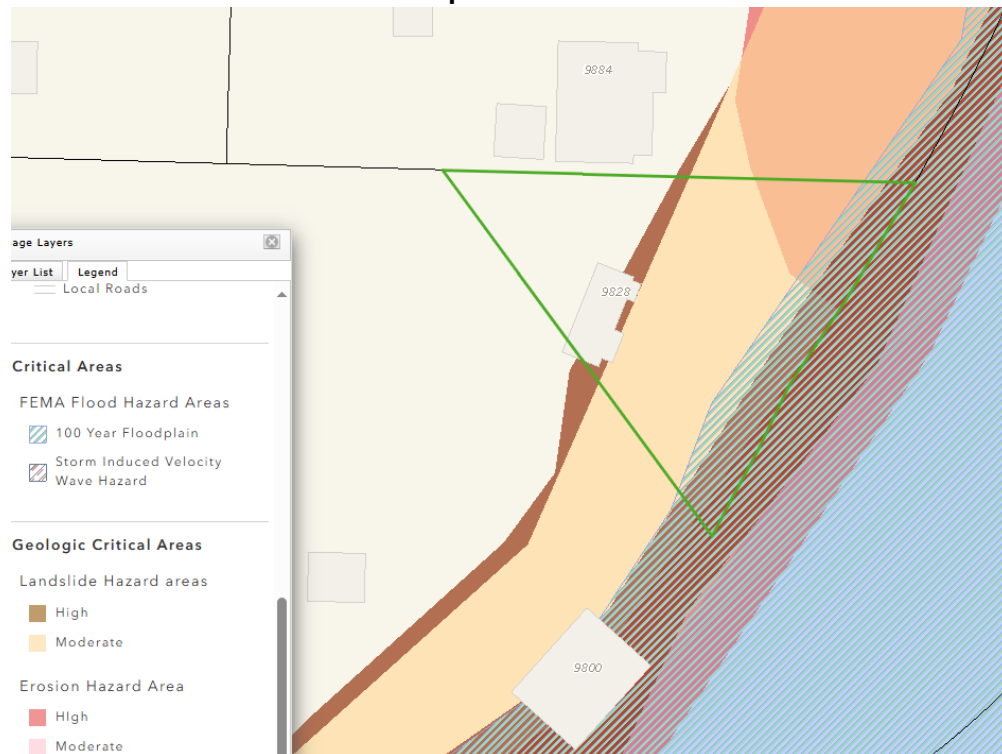
DCD Staff Planner: Jenny Kreifels



### Attachment A – Site Plan



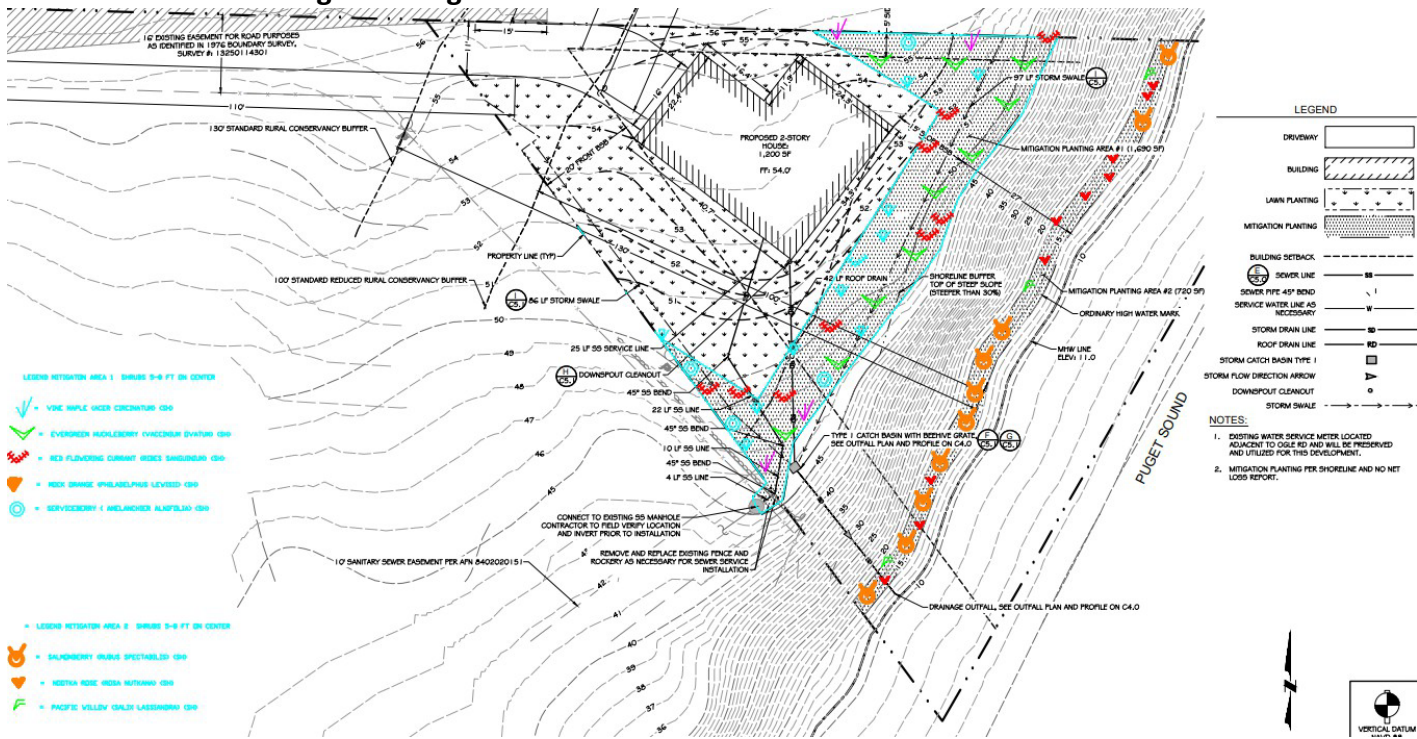
### Attachment B – Critical Areas Map



### Attachment C – Zoning Map



### Attachment D – Planting Plan Diagram





**Attachment E – Google Earth Photo of Private Easement Driveway - 2018**



**Attachment F – Coastal Atlas Photos, Ecology**



**Attachment G – County Aerials (Top-down) 2021, 2018, 1994**





