



Staff Report for the Hearing Examiner

Report Date: May 4, 2017

Application Submittal Date: October 12, 2016

Hearing Date: May 11, 2017

Application Complete: October 12, 2016

Permit Number: 16 04643

Project Name: Myers Shoreline Residence

Type of Application: Shoreline Variance

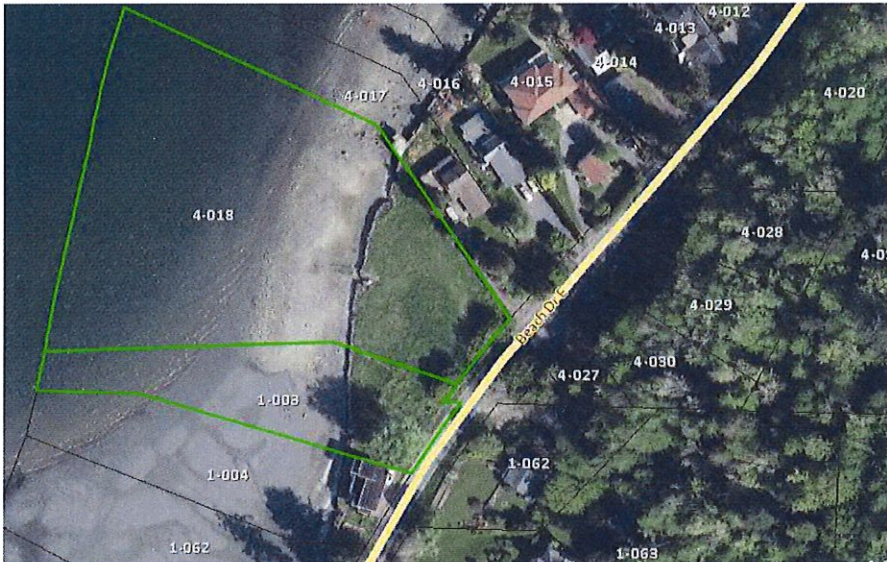
This staff report was prepared by Steve Heacock, Planner, based on information available up until the time the report was prepared. New information relevant to review of this application may become available prior to the hearing or at the hearing. Staff may wish to change their analysis based upon that new information, and reserves the right to do so.

Proposal Summary:

The Department of Community Development is recommending approval of the applicant's request for a Shoreline Variance for the proposed new residences as analyzed under the Shoreline Variance criteria.

Project Request:

Thomas and Laurie Myers are requesting an approval for a Shoreline Variance to allow the construction of two new single-family residences on the shoreline of Sinclair Inlet, Puget Sound.



Project Location:

3156 and 3176 Beach Drive E, Port Orchard, WA

Assessor's Account #:

182402-4-018-2008 and 192402-1-003-2000

Applicant/Owner of Record:

Thomas and Laurie Myers
7103 E Spring Hills Rd
Port Orchard, WA 98366

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 Non significance (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 197-11-800 (6) (e), the proposal is a variance and is SEPA exempt. The proposal is considered SEPA exempt per the County Environment Code pursuant to KCC Title 18.04.

Physical Characteristics:

The proposal consists of two separate parcels, a 0.22-acre parcel and a 0.49-acre parcel. Both are undeveloped platted properties located on the shoreline of Sinclair Inlet. The parcels are essentially planted grass lawn. The property has been historically used for family outings and is within the Rural Residential zone. The parcels consists of low-bank waterfront and have a protective bulkhead recently reconstructed. The proposal lies outside of the AE flood zone.

Comprehensive Plan Designation and Zoning:

The subject property's Comprehensive Plan designation is Rural Residential (RR, one dwelling unit per 5 acres), and the zoning designation is Rural Residential. The intent of this zone is to promote low-density residential development consistent with rural character.

Minimum Lot Area - 5 acres
Minimum Lot Width - 140 feet
Minimum Lot Depth - 140 feet
Maximum Height - 35 feet

Standard Rural Residential Zoning Setbacks

Front - 50 feet
Side - 20 feet
Rear - 20 feet

Because the properties are less than one acre, urban setbacks can be used per KCC17.382.110 Footnote A4.

Standard UR Zoning Setbacks

Front - 20 feet

Side - 5 feet
Rear - 5 feet

Surrounding Land Use and Zoning:

The surrounding parcels are all zoned Rural Residential.

Public Utilities and Services:

Water: West Sound Utility District
Power: Puget Sound Energy
Sewer: West Sound Utility District
Police: Kitsap County Sheriff
Fire: South Kitsap Fire District
Schools: South Kitsap School District

Access:

Access to the site is off of Beach Drive E, a county-maintained right of way.

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 August 2012*

The following Comprehensive Plan goals and policies are most relevant to this application:

Rural and Resource Lands

Policy RL-1

Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.

Policy RL-2

Provide a variety of densities in the rural areas to make more efficient use of land, maximize the return on public infrastructure investment, and provide for affordable housing opportunities.

Policy RL-3

Permit residential uses in rural areas consistent with the existing and planned rural character of the surrounding area.

Policy RL-4

Outside of Type III LAMIRDs, limit development only to that which serves rural residential or resource needs and not draw people from UGAs.

Policy RL-14

Provide road and access standards that enable all-weather access for emergency response vehicles while preserving and enhancing rural character.

Policy RL-15

Ensure proper installation, use and maintenance of on-site septic systems.

Housing

Policy HS-6

Ensure that a broad range of housing types are available through innovative planning, efficient and effective administration of land and building codes and financial assistance.

Policy HS-8

Encourage and facilitate development of a variety of housing types, including single-family residential, multi-family, mobile, modular, and manufactured homes. Doublewide mobile, modular and manufactured homes should be considered a single-family dwelling.

Policy HS-9

Encourage innovative land use practices and development standards that will have the effect of minimizing housing costs.

Policy HS-11

Permit and encourage the development of residential accessory dwelling units (mother-in-law apartments) in all residential zones with sufficient public facilities to support such development. Subject accessory dwelling units to development standards and design guidance that facilitates their compatibility with existing neighborhood character.

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

Kitsap County Code (KCC)

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

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 Exhibits 1-17.

Exhibit #	Document	Date or date stamped
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1	Project Application – Shoreline Variance	10/12/2016
2	Submittal Checklist	10/12/2016
3	Supplemental Application JARPA, Critical Area Variance	10/12/2016
4	No Net Loss report and variance criteria analysis	10/12/2016
5	Site Plan	10/12/2016
6	Project Narrative	10/12/2016
7	Vicinity Map	10/12/2016
8	Site photos	10/12/2016
9	Storm drainage analysis	10/12/2016
10	WDFW Memo regarding HPA	10/12/2016
11	Notice of Complete Application	10/12/2016
12	Notice of Application	11/09/2016
13	Step Deficiency Report	12/09/2016
14	DOE Shoreline Review Memo	1/05/2017
15	Revised No Net Loss Report and Site Plan Revision	3/16/2017
16	Notice of Public Hearing	4/26/2017
17	Neighboring Shoreline Proximity Analysis	4/28/2017
18	Staff report	5/04/2017

Public Comments:

We received one phone inquiry from a nearby resident, but no public comments were received. The Department of Ecology shoreline section provided comments related to the minimization criteria. Upon receipt of the comments from DOE, the applicant revised the site plan and no-net loss report.

Analysis:

Land Use and Zoning Analysis

Residential Standards

Two single-family residences are proposed within the Rural Residential zone. Because the properties are less than one acre in size, urban setbacks can be used per Kitsap County Code 17.382.110 Footnote A4.

Shoreline Variance analysis

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 August 2012*

The following Comprehensive Plan goals and policies are most relevant to this application:

Shorelines
Policy SH-1

Encourage and support shoreline diversity through planned and coordinated development, which gives preference to water-dependent uses, traditional and historic use patterns, resource values, and environmental protection.

Policy SH-3

Uses and activities along shorelines and in the waters of Kitsap County should not have a significant adverse effect on water quality.

Policy SH-8

Land use activities shall be sited and designed to minimize conflicts with and impacts on the shoreline environment.

22.200.115 Shoreline Residential Designation

A. Purpose. To accommodate residential development and appurtenant structures that are consistent with this program, and to provide appropriate public access and recreational uses.

B. Designation Criteria.

1. Shoreline areas that are predominately single-family or multifamily residential development or are planned or platted for residential development;
2. Does not include shorelines supporting existing residential development that may not support higher densities of development due to potential cumulative impacts to sensitive environments or safety, such as steep slopes or floodplains. Such shorelines shall be designated rural or urban conservancy, whichever applies.

C. Management Policies.

1. Standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to assure no net loss of shoreline ecological functions.
2. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities. If public access is not feasible on site, off-site options such as an in-lieu fee may be recommended.
3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
4. Commercial development should be limited to water-oriented uses. Water-oriented includes water-dependent, water-related and water-enjoyment uses.

The proposed residential development to the south is located adjacent to a flood zone, but the development is located outside of the flood zone. The proposal is a historic lot of record and is an undeveloped Rural Residential zoned property. The associated No-Net-Loss and Mitigation Report, along with the revised report materials, indicates that there will be no net loss of habitat and that mitigation will offset impacts associated with the shoreline buffer impacts for development of both properties. The associated effects analysis concurs there are no effects to endangered or threatened species related to the proposed development. The above-referenced items will meet or exceed the requirements of the code.

22.300.100 Critical Area and Ecological Protection

Goal: Protect and conserve shoreline natural resources, including protection of critical areas, while accommodating reasonable and appropriate uses which will assure, at a minimum, no net loss to shoreline ecological functions and processes.

- A. 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.

The proposed development is the minimum necessary to afford construction of single family residences while still protecting ecological functions.

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

Ecological functions, with proposed mitigation, will still be retained.

- C. Policy SH-3. Utilize transfer of development rights as allowed by Chapter 17.580, or as now or hereafter amended, as an option to protect ecological functions.

The proposal will not implement the transfer of development rights program.

- D. 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.

With mitigation, the proposed residences will not impact the associated critical areas on site. A mitigation plan and associated monitoring and maintenance plan will assure compliance with these requirements.

E. Policy SH-5. Shoreline ecological functions that should be protected include, but are not limited to:

1. Habitat (space or conditions for reproduction; resting, hiding and migration; and food production and delivery);
2. Water quality maintenance; and
3. Water quantity maintenance.

Impacts to shoreline ecological functions are not anticipated, and habitat enhancement will offset any temporary disturbance through implementation of the required mitigation, monitoring and maintenance plans.

F. Policy SH-6. Shoreline processes, both freshwater and marine, that should be protected to support the above functions include but are not limited to the delivery, loss and movement of:

1. Sediment;
2. Water;
3. Nutrients;
4. Toxins;
5. Pathogens; and
6. Large woody material.

Impacts to shoreline and freshwater processes are not anticipated, and habitat enhancement will offset any temporary disturbance through implementation of the required mitigation, monitoring and maintenance plans.

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

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.

Implementation of the mitigation plan along with the required monitoring and maintenance of the project area will assure no net loss of ecological functions and processes.

H. Policy SH-8. Critical areas in the shoreline jurisdiction shall be protected in a manner that results in no net loss to shoreline ecological functions. Pursuant to RCW 36.70A.030(5), critical areas include:

1. Wetlands.
2. Frequently flooded areas.
3. Fish and wildlife habitat conservation areas.
4. Geologically hazardous areas.
5. Critical aquifer recharge areas.

There are no wetlands on site. No flood zone impacts are proposed. Associated Impacts from buffer intrusions will be mitigated.

22.300.105 Vegetation Conservation Buffers

Goal: Conserve, protect and restore shoreline vegetation to provide for ecological and habitat functions as well as human health and safety. These functions include, but are not limited to, variable shading of the nearshore, food and shelter for terrestrial and aquatic organisms, and slope/soil stabilization.

A. Policy SH-9. Preserve native plant communities on marine, river, lake and wetland shorelines. In order 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 in order 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.

B. 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.

C. Policy SH-11. Maintaining native or ecologically functional vegetation is preferred over clearing to provide views or lawns. Limited and selective clearing may be allowed when slope

stability and ecological functions are not compromised. Limited trimming and pruning is generally preferred over removal of native vegetation.

Existing vegetation on site is essentially grass lawn, so no tree removal related to future construction is planned. Implementation of the mitigation plan associated with the No-Net-Loss report and revised report and restoration plan by BGE Environmental (Exhibits 4 and 15) provides for restoration of the shoreline with native plantings and will be augmented and enhanced through implementation of the planting plan at time of the building permit.

22.300.110 Water quality and quantity

Goal: Provide regulations and voluntary incentives to encourage practices which protect water quality and reduce stormwater runoff and erosion in order to protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and its aquatic life.

- A. Policy SH-12. Shoreline use and development should minimize impacts that contaminate surface or ground water, cause adverse effects on shoreline ecological functions, or impact aesthetic qualities and recreational opportunities, including healthy shellfish harvest.
- B. 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).
- C. Policy SH-14. Utilize pervious materials and other appropriate low impact development techniques where soils and geologic conditions are suitable and where such practices could reduce stormwater runoff.
- D. Policy SH-15. All shoreline use and development shall be conducted in accordance with Title [15](#) (Flood Hazard Areas). The subdivision of land should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. When evaluating alternate flood control measures or floodplain restoration opportunities, consider the removal or relocation of structures in flood-prone areas.

The proposed residential construction will use low impact development techniques for both the control of water on-site, and the treatment of water quality through implementation of a shared rain garden stormwater system.

22.300.125 Shoreline Use and Site Planning

Goal: Preserve and develop shorelines in a manner that allows for an orderly balance of uses by considering the public and private use, along with the development of shorelines and adjacent land areas with respect to the general distribution, location and extent of such uses and development.

A. Policy SH-20. For shoreline use and development activities, including plats and subdivisions at full build-out, employ innovative development features to achieve no net loss of ecological functions, such as sustainable and low impact development practices where appropriate.

B. 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. Non-water-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\(B\)](#).

C. Policy SH-22. Designate and maintain appropriate areas for protecting and restoring shoreline ecological functions and processes to control pollution and prevent damage to the shoreline environment and/or public health.

D. Policy SH-23. Through appropriate site planning and use of the most current, accurate and complete scientific and technical information available, shoreline use 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.

The implementation of the Mitigation Plan (Exhibit 4 and 15) and associated planting plan, along with the minimization of the building size on the south parcel, minimization of the buffer intrusion on the north parcel, and incorporation of the proposed water quality rain garden system will meet the associated goals and policies.

22.400.105 Proposed Development

A. Location.

1. New development shall be located and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

2. New development shall be located and designed to avoid the need for future shoreline stabilization for the life of the structure. Likewise, any new development which would require shoreline stabilization which causes significant impacts to adjacent or down-current properties shall not be allowed.

3. New development on lots constrained by depth, topography or critical areas shall be located to minimize, to the extent feasible, the need for shoreline stabilization.
4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
5. Subdivision shall be planned to avoid the need for shoreline stabilization for newly created lots, utilizing geotechnical analysis where applicable.
6. Non-water-oriented facilities and accessory structures, except for preferred shoreline uses, such as single-family residences and single-family residential appurtenances when consistent with buffer provisions in this chapter, must be located landward of buffers and adjacent water-oriented uses, or outside shoreline jurisdiction, unless no other location is feasible.

The proposed development for the south residence is a use requiring variance approval. The northern parcel has demonstrated minimization by re-configuration of the building to provide for a 38-foot shoreline buffer, and meets the criteria as a Type 2 shoreline variance. As such, the proposed new residences meet all aspects of location, and will not require further shoreline armoring. This criteria will be further analyzed in the shoreline variance criteria.

22.400.110 Mitigation (Sequencing and Mitigation Options)

The planned new residences propose mitigation through incorporation and implementation of the Habitat Planting Plan and No-Net-Loss report (Exhibit 4 and 15) and meets all qualifications for mitigation sequencing and options. Per 22.400.100 B (3) the proposed variance will be analyzed under the shoreline variance criteria under 22.500.100 (E).

22.400.115 Critical Areas

The flood zone has been addressed by the No-Net-Loss Report. There are no other critical areas on site.

22.400.120 Vegetation Conservation Buffers

The associated vegetation conservation buffer standards for this proposal are analyzed under the Shoreline residential buffer criteria in 22.400.120 (B) (b) requiring an 85-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.

22.400.125 Water Quality and Quantity

The proposal is located outside of the urban census area, and as such is creating less than 10,000 square feet of impervious surfaces. However as stormwater mitigation is required due to the proximity to critical areas, a Site Development Activity Permit (SDAP) may be required and will be further analyzed at time of building permit review.

22.400.130 Historic Archeological. Cultural, Scientific and Educational Resources

A. Applicability and Other Regulations.

1. This section applies to archaeological and historic resources either recorded by the Department of Archaeology and Historic Preservation, local jurisdictions or applicable tribal databases or predictive models.

2. HASCE sites shall comply with Kitsap County Contract KC 442-07 (Agreement with Department of Archaeology and Historic Preservation), Chapter 25-48 WAC (Archaeological Excavation and Removal Permit), Chapter 27.44 RCW (Indian Graves and Records), and Chapter 27.53 RCW (Archaeological Sites and Resources).

There were no comments provided by the Suquamish Tribe related to cultural resources. Kitsap County recommends that should any middens or remains be found during work, that the applicant or representative notify Kitsap DCD staff and the Suquamish Tribe immediately and cease work until a site visit is arranged.

22.400.135 View Blockage

There is no view blockage concern for the proposed new residences. Development on the surrounding properties is located waterward of the proposed new structures.

22.400.140 Bulk and Dimension Standards

The proposed new residences meet the criteria under this code.

22.500.100 E. Shoreline Variance Criteria

1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards (not uses) set forth in this program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

The application meets these criteria.

2. Variances shall be classified as a Type III permit under Chapter 21.04. Administrative variances shall be a Type II permit and may be granted where allowed under the use and modifications matrix or applicable permit requirements.

The application is a Type III permit and has been reviewed and is consistent with the code.

3. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

The associated Revised No-Net-Loss report, mitigation plan and re-vegetation plan indicates that the public interest shall suffer no substantial detrimental effect. Staff concurs with this finding.

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;
 - 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;
 - 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;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the public interest will suffer no substantial detrimental effect.

Thomas and Laurie Myers are seeking a shoreline variance in order to construct two new primary residences on the Rural Residential-zoned properties, within the confines of the Puget Sound shoreline (Sinclair Inlet). The shoreline designation is Shoreline Residential, and requires an 85-foot buffer with an additional 15-foot construction setback. Reduction of the buffer is authorized and described in the analysis in 22.400.120 vegetation conservation buffers. As defined in the criteria, under reduced standard buffers and per 22.120 (B) (2) (b), buffers may be reduced down to 50 feet with an analysis by a No-Net-Loss report and associated mitigation and shoreline restoration plan (provided as Exhibit 4 and 15). As the residential proposals have been reduced to the minimum extent possible from the shoreline due to the narrow parcel size and depth and the required 20 foot front setbacks, a setback buffer from the shoreline of a total of 37.5 feet for the northern residence and 18 to 26-foot shoreline setback for the southern residence (as located from the measured Ordinary High Water Line, OHWL) applies under the relief of the shoreline variance review, and as such meets the criteria, per the analysis of the variance criteria provided by BGE Environmental (Exhibit 4 and 15). The buffer restoration plan indicates in greater detail that a restored buffer will be applied, and a modified 15-foot construction setback will be incorporated for the variance. The restored area will meet the 37.5-foot total for the northern parcel. The southern parcel will incorporate a 5-foot construction setback with variable 18 to 26-foot restored buffer area. Stormwater treatment via a designed rain garden is applied due to the sandy nature of the soils on site. The facility will be located

within the buffer area and is planned within the outer portion of the overall buffer area, and has been reviewed for the shoreline-related buffer encroachment in the No-Net-Loss report.

The applicant has provided a comprehensive analysis of the variance criteria to DCD staff, including a project narrative (Exhibit 6) and the variance analysis (Exhibit 4 and 15). We have reviewed the document and find that it meets all of the variance criteria under items a through f. In addition to meeting the project variance criteria, the associated No-Net-Loss report provides for and meets the expectations under the Kitsap County Code, and we find that the proposed actions, with the implemented mitigation, meets the intent of the shoreline code.

22.600.170 Residential Development

A. Environment Designations Permit Requirements

3. Shoreline residential and high intensity:

- a. Primary single-family residences are exempt pursuant to criteria in Section [22.500.100\(C\)](#).
- b. SDP if exemption criteria not met.
- c. SDP for multifamily units, accessory dwelling units and subdivisions.

The proposal is for approval of two new primary residences and is addressed through the shoreline variance.

4. Aquatic: prohibited.

Not applicable

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

The properties were previously armored.

4. New over-water residences, including floating homes, are prohibited. Where such homes exist as of the adoption date of this program, they shall be reasonably accommodated to allow improvements associated with life safety matters and property rights.

Not applicable.

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

The proposal meets the stormwater control guidelines for Kitsap County under Title 12.

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) of this program and shall be designed to prevent net loss of shoreline ecological functions.

The application will comply with the flood zone requirements at time of building permit submittal.

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.

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

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

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.

This is not a subdivision proposal. Not applicable.

Agency Recommendation

Land Use review recommends approval base on 11 conditions (1-11). Development Engineering has 10 conditions of approval (12-21). There are no traffic concerns. Environmental Review recommends approval with 5 conditions (conditions 22-26).

Staff Evaluation of Decision Criteria

1. The Hearing Examiner has review authority for this Variance permit application under KCC, Sections 17.410.010(C) and 21.04.100. 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.
2. The proposal is consistent with the Comprehensive Plan and the Shoreline Master Program.
3. The proposal complies with or will comply with requirements of Title 17 and complies with or will comply with all of the other applicable provisions of the KCC and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report. The proposal is consistent with the code and provisions of the Kitsap County Shoreline Master Program.
4. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity.
5. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

Recommendation:

Based upon the information above, the Department of Community Development recommends that the Shoreline Variance permit request for the Myers' shoreline residence be **approved**, subject to the following conditions:

Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The new residences are subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.

4. Only one residence shall be permitted on each subject property.
5. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
6. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
7. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
8. 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.
9. The decision set forth herein is based upon representations made and exhibits contained in the project application (1-19). 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.
10. The Shoreline Variance Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within two years of the Notice of Decision date or the resolution of any appeals.
11. Any violation of the conditions of approval shall be grounds to initiate revocation of this Variance Permit.

Development Engineering

12. At building permit application, submit KCPW Form 1601 for issuance of a concurrency certificate, as required by KCC Section 20.04.030, Transportation Concurrency.
13. 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.

14. The information provided demonstrates this proposal contains critical areas. A Site Development Activity Permit (SDAP) may be required and will be analyzed at time of building permit submittal.
15. 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 Shoreline Variance Permit application was deemed complete, October 12, 2016. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances.
16. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as a Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The applicant shall contact Ecology to determine if the facility is regulated under the UIC program.
17. The design of the infiltration facilities will be accordance with Section 7.3.4 of the Kitsap County Stormwater Design Manual.
18. The infiltration facilities shall remain off-line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities. In addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.
19. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.
20. All retention facilities shall be a minimum of 200 feet from any slope steeper than 30%. This distance may be reduced based on a geotechnical engineering report. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.
21. 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 if no SDAP is required). The need for and scope of bonding will be determined at that time.

Environmental

22. Follow the recommendations of the No-Net-Loss report and revised report by

BGE Environmental LLC and the associated mitigation and planting plan.

23. The planting and mitigation plan will be monitored for a minimum of 5 years to ensure survival.
24. The newly created single-family residence will be limited to 35 feet in height per Kitsap County Code 22.500.100.a.2. Building height is defined in Kitsap County Code 17.110.140.
25. Permit approval requires that refuse shall not be placed in buffers.
26. There shall be no clearing of vegetation or grading in the buffer area, as is depicted on the approved site plan. Prior to any clearing or development, please contact Development Services and Engineering Environmental staff at (360) 337-5777 to confirm buffer boundaries.


Steve Heacock, Staff Planner

5/4/17
Date



Scott Diener, Development Services and Engineering Manager

5.4.17
Date

CC: Applicant/Owner: Thomas and Laurie Myers
Engineer: Norm Olson
Architect: Brian Lyman
Interested Parties: None
Suquamish Tribe, Alison O'Sullivan
Kitsap County Health District, MS-30
Department of Ecology, Shoreline Section, Misty Blair
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Steve Heacock
DCD File (16 04643)